

SECOND DAY - JANUARY 6, 2005**LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE
FIRST SESSION****SECOND DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, January 6, 2005

PRAYER

The prayer was offered by Senator Johnson.

ROLL CALL

Pursuant to adjournment, the Legislature met at 10:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Brown who was excused; and Senators Hudkins and Landis who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the first day was approved.

MOTION - Adopt Temporary Rules

Senator Erdman moved that the rules, as now in our possession, be adopted for today only, Thursday, January 6, 2005.

The motion prevailed.

MESSAGES FROM THE GOVERNOR

April 28, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Natural Resources Commission.

APPOINTEES:

*Roger Korell, RR 1 Box 297, Bayard NE 69334
*Wayne Madsen, PO Box 98, Trenton NE 69044
*Jim Van Marter, Jr., 135 West 9th Ave, Holdrege NE 68949

The aforementioned names are respectfully submitted for your consideration.

(Signed) Sincerely,
Mike Johanns
Governor

web/
Enclosure
*Reappointment

April 28, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Accountability and Disclosure Commission.

APPOINTEE:

Steve McCollister, 11815 Oakair Plaza, Omaha NE 68137

The aforementioned name is respectfully submitted for your consideration.

(Signed) Sincerely,
Mike Johanns
Governor

web/
Enclosure

May 28, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Nebraska Information Technology Commission.

APPOINTEE:

Susan Heider, 4021 Avenue B, Scottsbluff NE 69367

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure

June 29, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were reappointed to the Crime Victim's Reparations Committee.

APPOINTEES:

William Brueggeman, 809 1st Avenue, Plattsmouth NE 68048
Charles Brewster, 1711 W 41st Street, Kearney NE 68847

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure

June 30, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Board of Emergency Medical Services.

APPOINTEE:

Dr. Rommie J. Hughes, 5415 Oriole Drive, Scottsbluff NE 69361

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure

July 1, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Coordinating Commission for Postsecondary Education.

APPOINTEE:

Marilyn Harris, 3618 Culpepper Court, Lincoln NE 68516

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure

July 16, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Foster Care Review Board.

APPOINTEES:

Joellen McGinn, 1437 S 23rd Street, Lincoln NE 68502

Gerald Schenck, 1030 McMartin Avenue, Grand Island NE 68801
John Seyfarth, 4612 Sutley Circle, Papillion NE 68133

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure

July 16, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the State Board of Health.

APPOINTEES:

*Samuel Augustine, 9514 Grover Street, Omaha NE 68124
Edward Discoe, 2316 Muirfield Place, Columbus NE 68601
*Linda Lazure, 2321 Country Club Ave, Omaha NE 68104
*James C. Schiefen, 710 W 5th, Imperial NE 69033
Gary Westerman, 1106 South 91st Ave, Omaha NE 68124

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure
*Reappointment

July 16, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was reappointed to the Child Abuse Prevention Fund Board.

APPOINTEE:

Kevin Benesch, 2337 Ryons Street, Lincoln NE 68502

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure

July 19, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Boiler Safety Code Advisory Board.

APPOINTEE:

Thomas DiMartino, 6940 Cornhusker Hwy, Lincoln NE 68507

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure

July 22, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Foster Care Review Board.

APPOINTEE:

James E. Gordon, 1646 Trelawney Drive, Lincoln NE 68512

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure

August 12, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Nebraska Ethanol Board.

APPOINTEE:

*Charles J. "Tod" Brodersen, 2405 West 11th Street, Hastings NE 68901

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure
*Reappointment

August 12, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were reappointed to the Board of Emergency Medical Services.

APPOINTEES:

Shawn J. Baumgartner, 1928 8th Avenue, Scottsbluff NE 69361

Robert Dunn, 1500 Brighton Ave, Lincoln NE 68506

Michael L. Westcott, 9742 Ascot Drive, Omaha NE 68114

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure

August 12, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Rural Health Advisory Commission.

APPOINTEES:

William Brush, 107 N Grand, North Loup NE 68859

Martin L. Fattig, 2508 P Street, Apt #2, Auburn NE 68305

*Pamela H. List, 330 Lambrecht Street, Beemer NE 68716

Michele Mulligan-Witt, M.D., 100 Meadow Lake Road, Valentine NE 69201

*Dr. Donald Taylor, Jr., 1335 Sheridan Ave, Alliance NE 69301

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure
*Reappointment

August 12, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was reappointed to the State Personnel Board.

APPOINTEE:

Samuel Seever, 6425 Lone Tree Drive, Lincoln NE 68512

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure

August 12, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were reappointed to the State Electrical Board.

APPOINTEES:

Riley H. George, 303 Cherokee Road, Lexington NE 68850
Tom F. Ourada, 1130 East 13th Street, Crete NE 68333

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/

Enclosure

August 13, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was reappointed to the Nebraska Investment Council.

APPOINTEE:

John Maddux, 74287 333 Ave, Imperial NE 69033

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure

September 17, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Board of Emergency Medical Services.

APPOINTEES:

Benjamin B. Lans, 536 Moorehead, Chadron NE 69337
Clinton Rasmussen, PO Box 458, Dakota City NE 68731

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure

September 20, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Child Abuse Prevention Fund Board.

APPOINTEE:

*Peter Tulipana, 1604 South 154th Street, Omaha NE 68144

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure
*Reappointment

September 20, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Board of Educational Lands and Funds.

APPOINTEE:

*M. Jane Keller, HC 88 Box 30, 303 West Highway 20, Bassett NE 68714

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure
*Reappointment

September 30, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Nebraska Arts Council.

APPOINTEES:

Vicki P. Bromm, 1448 N Pine Street, Wahoo NE 68066
David Catalan, 900 Farnam Street #610, Omaha NE 68102
Murray H. Newman, 112 S 92nd Street, Omaha NE 68114
Germelina Salumbides, 3215 19th Avenue, Kearney NE 68845
Richard J. Vierk, 1230 Fall Creek Road, Lincoln NE 68510
*Donna Woods, 128 N 13th Street #1007, Lincoln NE 68508

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure
*Reappointment

October 13, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Game and Parks Commission.

APPOINTEE:

James J. Ziebarth, 2402 Highway 44, Wilcox NE 68982

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure

October 26, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed
Behavioral Health Administrator.

APPOINTEE:

Richard DeLiberty, HHSS State Office 3rd Floor, Lincoln NE 68509

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure

October 26, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed
Director of the Department of Aeronautics.

APPOINTEE:

Stuart MacTaggart, 3431 Aviation Road, Suite 150, Lincoln NE 68501

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure

October 28, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Coordinating Commission for Postsecondary Education.

APPOINTEE:

James W. Strand, 2149 Stone Creek Loop, Lincoln NE 68512

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure

November 9, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed as the director of the Department of Health and Human Services Finance and Support.

APPOINTEE:

Richard P. Nelson, 301 Centennial Mall South, Lincoln NE 68509

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure

November 9, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed as the director of the Department of Health and Human Services Regulation and Licensure.

APPOINTEE:

Dr. Richard Raymond, 301 Centennial Mall South, Lincoln NE 68509

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure

December 2, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Nebraska Ethanol Board.

APPOINTEE:

James J. Jenkins, RR 1 Box 29, Callaway NE 68825

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure

December 3, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Public Employees Retirement Board.

APPOINTEES:

*Denis Blank, Department of Agriculture, 301 Centennial Mall, 4th, Lincoln NE 68509
Sgt. Glenn Elwell, NE State Patrol, 1600 Hwy 2, Lincoln NE
Mark Shepard, Fremont Public Schools, 957 N Pierce Street, Fremont NE 68025

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure
*Reappointment

December 3, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to

the Nebraska Motor Vehicle Industry Licensing Board.

APPOINTEE:

*Jess Hull, 3303 N 133rd Circle, Omaha NE 68164

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure
*Reappointment

December 8, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the State Emergency Response Commission.

APPOINTEE:

*Steven Danon, 17609 Renfro Street, Omaha NE 68135

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure
*Reappointment

December 15, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Nebraska Educational Telecommunications Commission.

APPOINTEES:

*Stan Carpenter, 6731 Crooked Creek Drive, Lincoln NE 68516

*Mary Harbaugh, 2609 Riverview Drive, Grand Island NE 68801

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/

Enclosure

*Reappointment

December 15, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Nebraska Transit and Rail Advisory Council.

APPOINTEES:

*Anne Boyle, 420 South 11th #303, Omaha NE 68102

*Duane Eitel, 3505 S 31st Street, Lincoln NE 68502

*Roger Figard, 5411 Glade, Lincoln NE 68506

*David Gilfillan, 2410 Lincoln Street, Beatrice NE 68310

*Georgia Janssen, RR #1 Box 144, Winside NE 68790

*Steve McBeth, 6010 Rolling Hills Blvd, Lincoln NE 68512

*Paul Mullen, 2222 Cuming Street, Omaha NE 68102

*Thomas Mulligan, 12311 Charles Street, Omaha NE 68154

*Roberto Munguia, 201 N 7th Street, Lincoln NE 68501

*Gary Ruegg, 16314 Seward Circle, Omaha NE 68118

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure
*Reappointment

December 17, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Boiler Safety Code Advisory Board.

APPOINTEES:

*Thomas DiMartino, 22017 Bobwhite Ave, Gretna NE 68028
*Martin Kasl, 6700 Ridge Point Road, Lincoln NE 68512

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure
*Reappointment

December 17, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the State Emergency Response Commission.

APPOINTEE:

Donald Eisenhower, 72175 574th Avenue, Plymouth NE 68424

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure

December 17, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Board of Trustees of the Nebraska State Colleges.

APPOINTEES:

*Stephen Lewis, 505 West 20th Street, Lexington NE 68850
Carter Peterson, 502 Douglas Street, Wayne NE 68787

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure
*Reappointment

December 23, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individuals were appointed to the Nebraska Power Review Board.

APPOINTEES:

Donald Kohtz, 10330 N 140th St Unit EZ, Waverly NE 68462
*Ken Kunze, 721 Grant Avenue, York NE 68467

The aforementioned names are respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure
*Reappointment

December 23, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Game and Parks Commission.

APPOINTEE:

Jerrold Burke, Rt 3 Box 109, Curtis NE 69025

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure

December 23, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Commission of Industrial Relations.

APPOINTEE:

David J. Cullan, 424 South 89th Street, Omaha NE 68114

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure

December 27, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Environmental Quality Council.

APPOINTEE:

Jerry P. (Pat) Trotter, 7220 22nd Street, Gothenburg NE 69138

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure

December 28, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the State Board of Health.

APPOINTEE:

Dr. Paul Salansky, 2521 Whitaker Road, Nebraska City NE 68410

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure

December 28, 2004

President, Speaker Bromm
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Mr. President, Speaker Bromm and Senators:

Contingent upon your approval, the following individual was appointed to the Nebraska State Fair Board.

APPOINTEE:

Tamas R. Allan, 5405 A Street, Lincoln NE 68510

The aforementioned name is respectfully submitted for your consideration.

Sincerely,
(Signed) Mike Johanns
Governor

web/
Enclosure

ATTORNEY GENERAL'S OPINIONS

Opinion 04021

DATE: August 2, 2004

SUBJECT: Authority Of The Governor To Conform Certain
Nebraska Government Procurement Procedures To
The Provisions Of The Agreement On Government
Procurement Under The Auspices Of The World Trade
Organization.

REQUESTED BY: Sen. Chris Beutler
Nebraska State Legislature

WRITTEN BY: Jon Bruning, Attorney General

Dale A. Comer, Assistant Attorney General

From 1948 to 1994, much of world trade was governed by the international General Agreement on Tariffs and Trade ("GATT"), to which the United States was a party. Initially, GATT did not pertain to government procurement. However, in 1979, an Agreement on Government Procurement ("GPA") was signed under GATT, and that agreement became effective in 1981. The first GPA was subsequently amended in 1987, and again in 1994, at the same time that the agreement establishing the World Trade Organization ("WTO") was implemented. Currently, the United States is one of a small group of World Trade Organization members which is a party to the GPA within the framework of the WTO, and that GPA became effective on January 1, 1996. The GPA seeks expansion of world trade in three main ways: 1. it prohibits discrimination based upon national origin for the procurement of goods and services from countries that are parties to the GPA, 2. it establishes clear and transparent laws, regulations and procedures for making government purchases, and 3. it applies competitive procedural requirements to the government purchasing and contracting process.

As noted above, the United States was a party to GATT, and it currently is a member of the WTO and a party to the Agreement on Government Procurement. Individual States may also elect to participate in the GPA, and thirty-seven States have agreed to do so. For purposes of the GPA, States are considered to be sub-central governments. Nebraska has participated in the GPA since at least 1993, when Governor Nelson agreed that the United States Trade Representative ("USTR") could offer procurement from the State's "central procurement agency" for coverage under the GATT Agreement on Government Procurement. Letter from E. Benjamin Nelson, Governor of Nebraska to Ambassador Michael Kantor, United States Trade Representative (December 10, 1993)(on file with the Office of the Governor of Nebraska).

In September 2003, Robert B. Zoellick, the United States Trade Representative, wrote to Governor Johanns and noted that the federal government was in the process of negotiating several new trade agreements with various countries. Letter from Robert B. Zoellick, United States Trade Representative to Mike Johanns, Governor of Nebraska (received by the Governor on September 15, 2003)(on file with the Office of the Governor of Nebraska). Mr. Zoellick then sought the Governor's permission to offer the new trading partners the same nondiscriminatory treatment that Nebraska already offered the 27 other countries which were members of the GPA. *Id.* Mr. Zoellick further represented that Nebraska would not be required to take on additional commitments which would require it to change its current government procurement practices. *Id.* Mr. Zoellick also stated that the new trade agreements would provide the same basic obligations as set out in the current GPA, and that, like the current GPA, the provisions would apply only to purchases of goods and services over \$460,000, and to construction contracts over 6.481 million dollars. *Id.*

On May 10, 2004, Governor Johanns responded to Mr. Zoellick, and authorized him to offer access to Nebraska's government procurement market in the free trade agreements he was negotiating. Letter from Mike Johanns, Governor of Nebraska to Robert B. Zoellick, United States Trade Representative (May 10, 2004)(on file with the Office of the Governor of Nebraska). Governor Johanns stated that Nebraska would undertake the same commitments which it already had undertaken in the current GPA under the auspices of the World Trade Organization. *Id.* Governor Johanns also stated that:

. . . Nebraska's agreement is contingent upon existing state laws that govern purchasing requirements for state agencies. Nothing in this correspondence abrogates existing state law.

Id.

You are concerned that the Governor may not have authority to bind the State of Nebraska to participate in the GPA and in the trade agreements which the USTR is currently negotiating. You also believe that the state's procurement laws are matters within the purview of the Legislature. Accordingly, you have posed two questions to us which we will discuss below. Both of your questions are posed in the context of proposed legislation which you are considering, and which would provide that "[s]tate officials, including the Governor, do not have the authority to agree to bind the State under the government procurement rules of an international trade agreement, nor to give consent to the federal government to be bound by such an agreement."

Question No. 1. Does the Governor have the authority to bind the state to the procurement provisions of those trade agreements the USTR is currently negotiating? If the Governor does not, in fact, have such authority, I question whether it is necessary to spell this out in state statute, as I am proposing to do.

To answer your initial question, it seems to us that we must first determine if, in our view, current Nebraska statutes give the Governor the authority to subject certain government procurement in Nebraska to the procurement provisions of the GPA with respect to additional countries as requested by the USTR. If there is no such current statutory authority, then we must determine if the Governor has inherent constitutional authority to act unilaterally in that fashion.

1. The Agreement on Government Procurement (GPA)

In analyzing the Governor's authority to subject government procurement in Nebraska to the provisions of the GPA, it is important to start with an understanding of precisely what the GPA requires its participants to do. Therefore, we will set out a summary of the significant GPA provisions as

we understand them. These are general rules, to which there are often exceptions.

1. The GPA applies to government procurement of both goods and services, including construction services, above the following thresholds: \$477,000 for purchases of goods and services, and 6.7 million dollars for construction contracts. Those thresholds are subject to frequent review and revision. With respect to state participants, each State may specify which specific agencies or departments are subject to the GPA and which types of procurement are covered. Each State may also make any exceptions to coverage or exclusions which it deems necessary.
2. Entities which are subject to the GPA, including participating States, are required to apply all laws, regulations, procedures, and practices regarding government procurement so that the providers of products and services from countries which are also parties to the Agreement are treated the same in every respect as domestic providers of products and services, and the same as each other. Therefore, no preferences for domestic suppliers or for one foreign supplier over another may be applied, unless the State has listed that particular procurement as an exception to coverage. In addition, discriminatory procurement laws can continue to be applied to government procurements which do not fall within the scope of the GPA, or to countries which are not covered under the GPA.
3. Technical specifications for products or services to be procured will not be prepared, adopted or applied with a view to or the effect of creating unnecessary obstacles to international trade.
4. "Tendering" (bidding) procedures for government procurement subject to the GPA must be conducted in a nondiscriminatory manner. The GPA contains provisions for open tendering procedures, selective tendering procedures and limited tendering procedures.
5. A notice of proposed procurement must be published for each intended procurement subject to the GPA. Bid documentation provided to suppliers must also contain specified information.
6. Procedures for qualifying suppliers may not discriminate among domestic suppliers and foreign suppliers.
7. Selection of providers for government procurement must be done in a fair and nondiscriminatory manner. Bids must normally be submitted in writing. Bid opening procedures must be conducted with regularity.
8. Entities subject to the GPA may not use offsets in the qualification

and selection of suppliers, products or services, or in the evaluation of bids and the award of contracts. Offsets are defined in the GPA to include measures used to encourage local development or improve balance-of-payments accounts by means of domestic content, licensing of technology, investment requirements, counter-trade or similar requirements.

9. Entities subject to the GPA must publish notice of awards of contracts which are covered by the GPA.
10. Governments of unsuccessful bidders in connection with a procurement under the GPA may obtain additional information on the contract award so as to determine if the procurement was made fairly and impartially. Parties to the GPA must promptly publish laws, regulations, judicial decisions, or administrative rulings of general application to government procurement covered by the GPA so that others can become acquainted with them.
11. Parties to the Agreement must provide nondiscriminatory, timely, transparent and effective procedures which will enable suppliers to challenge alleged breaches of the GPA arising in the context of procurements where they have or had an interest. An example of such a procedure would be providing access to a court system.

The provisions outlined above appear to fall into two main areas of emphasis. First, they require that government procurement subject to the GPA be nondiscriminatory, and that all suppliers be treated the same, without preferences. Second, they require that government procurement subject to the GPA be accomplished through open and competitive bidding and contract award procedures.

It is also important to understand which Nebraska agencies are bound by the actions of Governor Nelson and Governor Johanns, since the GPA applies only to government procurement by those specific agencies or departments which a particular State has designated as subject to the Agreement. Unfortunately, that determination is not entirely clear.

In Governor Nelson's 1993 letter to the USTR, he specified that procurement from Nebraska's "central procurement agency" could be offered under the GATT Agreement on Government Procurement.¹ Letter from E. Benjamin Nelson, Governor of Nebraska to Ambassador Michael Kantor, United States Trade Representative (December 10, 1993)(on file with the Office of the Governor of Nebraska). That designation could logically apply to the Department of Administrative Services ("DAS") and all of its procurement divisions such as the Materiel Division or the State Building Division. However, some materials pertaining to the GPA indicate that the only Nebraska procurement agency subject to the GPA is the Materiel Division of the Department of Administrative Services. LINDA CARROLL, WORLD TRADE ORGANIZATION GOVERNMENT

PROCUREMENT AGREEMENT IMPLEMENTATION GUIDELINES AND DIRECTORY OF SOLICITATION ADVERTISING, Appendix A 17 (National Association of State Purchasing Officials 1996). In either case, it appears to us that application of the GPA in Nebraska extends only to portions of DAS under the Governor's direct control.²

2. Statutory authority of the Governor with respect to the GPA.

We are aware of no Nebraska statute which specifically provides that the Governor has authority to subject certain government procurement in Nebraska to trade agreements similar to the GPA. Nor have we discovered any Nebraska cases which deal directly with that issue. However, there is a Nebraska statute which speaks to bidding preferences and nondiscriminatory bidding, the first area of emphasis under the GPA. There are also Nebraska statutes which deal with the authority of DAS and its divisions to purchase goods and services within an open and competitive bidding and procurement process, the second emphasis of the GPA.

In the area of nondiscriminatory treatment, Neb. Rev. Stat. § 73-101.01 (2003) provides:

When a public contract is to be awarded to the lowest responsible bidder, a resident bidder shall be allowed a preference over a nonresident bidder from a state which gives or requires a preference to bidders from that state. The preference shall be equal to the preference given or required by the state of the nonresident bidder. Resident bidder as used in sections 73-101.01 and 73-101.02 shall mean any person, partnership, foreign or domestic limited liability company, association or foreign or domestic corporation authorized to engage in business in the State of Nebraska and which has met the residency requirement of the state of the nonresident bidder necessary for receiving the benefit of that state's preference law on the date when any bid for a public contract is first advertised or announced or has had a bona fide establishment for doing business within this state for the length of time on the date when any bid for a public contract is first advertised or announced. Any contract entered into without compliance with sections 73-101.01 and 73-1-1/02 shall be null and void.

Therefore, Nebraska has a reciprocal preference statute. The State must give resident bidders in a particular public contracting situation the same preference which any nonresident bidders receive from their government in similar situations.

Under the GPA, suppliers or bidders for government procurement can receive no preferences. As a result, foreign countries which are parties to the GPA can give their own suppliers no preferences over Nebraska bidders in their government procurement subject to the Agreement. Consequently, since there can be no foreign preferences under the GPA, no preferences for resident bidders in Nebraska are required for government procurement under

the GPA by § 73-101.01. On that basis, it appears to us that the nondiscriminatory preference provisions in the GPA are permissible under and compatible with Nebraska law.

The second area of emphasis within the GPA involves requirements for open and competitive bidding and contract award procedures. Nebraska statutory law in this area generally tracks the GPA, and provides broad authority for DAS and its divisions to make purchases of goods and services in an open and competitive environment.

The GPA applies to government procurement of goods and services, including construction services. It also covers procurement by any contractual means including lease, rental or hire purchasing. The Materiel Division of the Department of Administrative Services has broad authority in those areas. For example, Neb. Rev. Stat. § 81-153 (2003) provides, as is pertinent:

The material division shall have the power and duty to:

(1) Purchase or contract for, in the name of the state, the personal property required by using agencies and the state;

(2) Promulgate, apply and enforce standard specifications established as provided in section 81-154;

* * *

(4) Determine the utility, quality, fitness, and suitability of all personal property tendered or furnished;

(5) Make rules and regulations consistent with sections 81-145 to 81-171 and 81-1118 to 81-1118.06. . . .

* * *

(8) Enter into any personal property lease agreement when it appears to be in the best interest of the state; and

(9) Negotiate purchases and contracts when conditions exist to defeat the purpose and principles of public competitive bidding.

In addition, Neb. Rev. Stat. § 81-1118 (Supp. 2003) provides, in pertinent part:

The materiel division of the Division of Administrative Services is hereby established and shall be managed by the materiel administrator.

There are hereby established the following seven branches of the materiel division of the Department of Administrative Services which

shall have the following duties, powers and responsibilities:

* * *

(5) The state purchasing bureau shall be responsible for all purchases by all state agencies other than the University of Nebraska. The materiel division shall administer the public notice and bidding procedures and any other areas designated by the Director of Administrative Services to carry out the lease or purchase of personal property.

* * *

Therefore, the Materiel Division of DAS has broad authority in the procurement of goods and personal property for the State.

In addition, the Material Division of DAS has broad authority in the procurement of services for the State. Neb. Rev. Stat. § 73-504 (2003) provides:

Except as provided in section 73-507 [containing certain exceptions]:

(1) All state agencies shall comply with the review and competitive bidding processes provided in this section for contracts for services. Unless otherwise exempt, no state agency shall expend funds for contracts for services without complying with this section;

(2) All proposed state agency contracts for services in excess of fifty thousand dollars shall be bid in the manner prescribed by the materiel division procurement manual or a process approved by the Director of Administrative Services. Bidding may be performed at the state agency level or by the materiel division. Any state agency may request that the materiel division conduct the competitive bidding process;

(3) If the bidding process is at the state agency level, then state agency directors shall ensure that the bid documents for each contract for services in excess of fifty thousand dollars are prereviewed by the materiel division and that any changes to the proposed contract that differ from the bid documents in the proposed contract for services are reviewed by the materiel division before signature by the parties;

(4) State agency directors, in cooperation with the materiel division, shall be responsible for appropriate public notice of an impending contractual services project in excess of fifty thousand dollars in accordance with the materiel division's procurement manual and sections 73-501 to 73-509; and

(5) State agency directors, in cooperation with the materiel division, shall be responsible for ensuring that a request for contractual services

in excess of fifty thousand dollars is filed with the materiel division for dissemination or web site access to vendors interested in competing for contracts for services.

To the extent that construction services are within Nebraska's coverage under the GPA,³ the DAS Building Division also has authority with respect to government procurement in that area. For example, Neb. Rev. Stat. § 81-1108.15 (1999) provides, in part, that:

The [DAS Building] division shall have the primary functions and responsibilities of statewide facilities planning, facilities construction, and facilities administration and shall adopt and promulgate rules and regulations to carry out this section.

Nebraska statutes also require DAS and its procurement divisions to purchase goods and services through competitive bids and in an open and competitive environment. An example of such requirements is Neb. Rev. Stat. § 81-161 (2003), which states, as is pertinent:

All purchases, leases, or contracts which by law are required to be based on competitive bids shall be made to the lowest responsible bidder, taking into consideration the best interests of the state, the quality or performance of the personal property proposed to be supplied, the conformity with specifications, the purposes for which required, and the times of delivery.

See also, Neb. Rev. Stat. § 81-1118 (Supp. 2003); Neb. Rev. Stat. § 72-803 (2003).

On the basis of the lengthy discussion above, it appears to us that the GPA, as applied to government procurement in Nebraska by Governors Nelson and Johanns, is consistent and compatible with existing Nebraska law. Moreover, by agreeing to require Nebraska's central procurement agency to conduct certain government procurements in accordance with the GPA, Governor Johanns essentially agreed that a state agency under his direction and control would perform tasks which it was already authorized to do in a manner consistent with its statutory authority. We believe that the Governor has the ability to act in that fashion, even absent some specific directive to join in the GPA.⁴ It is also apparent that neither Governor Nelson nor Governor Johanns signed an actual treaty with foreign governments which would require the State of Nebraska to follow new procurement practices. Such an action by the Governor might well raise questions concerning improper exercise of legislative authority. Instead, both governors simply agreed to conduct certain government procurements in Nebraska in conformance with the GPA, and in a manner consistent with existing statutory authority for agencies under their control. For those reasons, we believe that current Nebraska statutes do allow the Governor to join the State in the GPA procurement provisions of those trade agreements which the USTR is currently negotiating. If you wish a contrary result, then

you should go forward with the legislation proposed in your opinion request.

Question No. 2. What effect would the Governor's "consent" have if he did not, in fact, possess such authority? If the Governor does not have such authority, or, alternatively, if the Legislature passes a bill invalidating a past attempt by a state official to bind the State to trade agreements, I am concerned as to the effect this would have at the national level.

Since we have determined that the Governor does have authority to consent to application of the GPA to certain government procurements in Nebraska, it is not necessary for us to respond to the initial portion of your second question. However, given the proposed legislation set out in your opinion request and your concern about effects of state legislation at the national level, we will briefly comment on the second portion of your question.

Withdrawals of entities from the GPA and resultant modifications of GPA coverage are subject to Article XXIV of the Agreement. As we understand it, the United States government, at Nebraska's request, could withdraw coverage of Nebraska's government procurement from the GPA at any time. However, if that were to happen, then several consequences would flow from that withdrawal. First of all, the value of Nebraska's government procurement subject to the GPA would be calculated. Then, compensatory adjustments would quite likely be made to maintain a balance of rights and obligations and a comparable level of mutually agreed coverage under the Agreement. For example, other countries which are parties to the GPA could withdraw a like amount of their procurement from the GPA, which would mean that suppliers from Nebraska and other U.S. suppliers could lose some right to equal treatment regarding government procurement in other countries. Alternatively, compensatory adjustments might include a requirement that the federal government, as a party to the GPA and a member of the WTO, be required to make up the value of the Nebraska procurement lost in some fashion. Consequently, withdrawal of Nebraska's government procurement from application of the GPA could have adverse effects, both at the state and national levels.

¹Apparently, Governor Nelson's 1993 letter also forms the basis for Nebraska's current participation in the GPA under the auspices of the WTO. Governor's Johann's letter of May 10 would simply extend that coverage to additional countries.

²We understand that it is likely that the USTR would defend whatever interpretation the Governor would place on the term "central procurement agency" for purposes of coverage under the GPA.

³The scope of coverage for a given entity under the GPA is determined both by the Agreement and by the coverage designation of the entity itself. As noted above, Nebraska has designated its "central procurement agency"

as subject to the GPA. If that designation pertains to the Materiel Division alone, that agency has no authority to supervise the erection or construction of buildings under Neb. Rev. Stat. § 81-146 (2003). However, to the extent that Nebraska's designation includes the Building Division of DAS, that agency has authority regarding the construction of buildings.

⁴Indeed, we believe that the Governor could direct state purchasing agencies to make government procurements under the same terms as those set out in the GPA, even if the GPA did not exist, so long as countries of non-resident bidders did not establish preferences for their residents in government procurement.

Sincerely yours,
JON BRUNING
Attorney General
(Signed) Dale A. Comer
Assistant Attorney General

cc: Patrick O'Donnell
Clerk of the Legislature
05-266-21

Opinion 04022

DATE: August 14, 2004

SUBJECT: Authority Of The Legislature's Performance Audit Committee To Review Confidential Records In Connection With A Performance Audit Of A State Agency.

REQUESTED BY: Sen. Chris Beutler
Nebraska State Legislature

WRITTEN BY: Jon Bruning, Attorney General
Dale A. Comer, Assistant Attorney General

The Nebraska Legislative Performance Audit Act (the "Act") is found at Neb. Rev. Stat. §§ 50-1201 through 50-1215 (Supp. 2003, 2004 Neb. Laws LB 1118, §§ 1,2). That Act generally provides that a special legislative committee known as the Legislative Performance Audit Committee (the "Committee") shall conduct performance audits of state agencies and their programs and activities. Those audits are intended to provide an independent assessment of state agencies and their programs. Those audits consider such things as the effectiveness and results of programs, agency economy and efficiency, internal control by state agencies, and agency compliance with legal and other requirements.

Some question has apparently arisen with respect to the Committee's

ability to obtain "confidential information" during the course of its audit work, and you introduced a bill during the last legislative session that clarified the scope of the Committee's authority. You have now posed two questions to us regarding that authority, and we will discuss each of your questions below. However, for purposes of our discussion, we will address your second question first.

Question No. 2. Whether the Legislative Performance Audit Committee's authority to obtain confidential information and records mirrors the authority of the Auditor of Public Accounts. In other words, is the Auditor's authority to access confidential information broader, narrower, or the same as that of the Legislative Performance Audit Committee?

Two Nebraska statutes deal with the authority of the Auditor of Public Accounts to access records in the possession of state agencies.¹ First of all, the initial sentence of Neb. Rev. Stat. § 84-304 (3)(2004 Neb. Laws LB 1118, § 3) provides that it shall be the duty of the Auditor:

To examine or cause to be examined, as such time as he or she shall determine, books, accounts, vouchers, records, and expenditures of all state officers, state bureaus, state boards, state commissioners, the state library, societies and associations supported by the state, state institutions, state colleges, and the University of Nebraska, except when required to be performed by other officers or persons.

In addition, Neb. Rev. Stat. § 84-305 (1999) states that:

The Auditor of Public Accounts shall have access to all records of any public entity, in whatever form or mode the records may be, unless the auditor's access to the records is specifically prohibited or limited by federal or state law. No provisions of state law shall be construed to change the nonpublic nature of the data obtained as a result of the access. When an audit or investigative finding emanates from nonpublic data which is nonpublic pursuant to federal or state law, all the nonpublic information shall not be made public.

Section 84-305 was added to the statutes by 1995 Neb. Laws LB 509, § 4. The purpose of that provision from LB 509 was to "clarify the Auditor's access to nonpublic information." Committee Records on LB 509, 94th Neb. Leg., 1st Sess. Introducer's Statement of Intent (February 15, 1995). It was designed to guarantee the Auditor access to all records. Floor Debate on LB 509, 94th Neb. Leg., 1st Sess. 3566 (March 30, 1995)(Statement of Sen. Hall).

In contrast, § 50-1205 provides that the Committee shall:

(7) Inspect and examine, or approve the inspection and examination of, the records and documents of any agency as a part of a performance

audit or preaudit inquiry;

(8) Administer oaths, issue subpoenas, compel the attendance of witnesses and the production of any papers, books, accounts, documents, and testimony, and cause the depositions of witnesses either residing within or without the state to be taken in the manner prescribed by law for taking depositions in civil actions in the district court.

A comparison of the statutes set out above permits several observations. First, the Committee has the power to subpoena witnesses and compel the production of documents, while the Auditor does not. In that sense, the Committee's general authority to access information is broader than that of the Auditor. However, when the Committee's authority to access documents outside of its subpoena power is compared with that of the Auditor, the circumstances are different. In the latter situation, § 84-305 allows the Auditor to review "all records of any public entity, in whatever form or mode the records may be, unless the auditor's access to the records is specifically prohibited or limited by federal or state law," and that language was apparently intended to allow the auditor to reach "nonpublic information." No similar language is contained in § 50-1205 (7), and that statute essentially tracks § 84-304 (3). For that reason, we believe that the Auditor's authority to review confidential information is broader than the Committee's authority in that regard.

Question No. 1. Whether the Legislative Performance Audit Committee has the inherent authority to access any and all of an agency's information and records, confidential or otherwise, in whatever form they may be. I am concerned as to (1) how the term "confidential" is defined, (2) whether an agency could assert any sort of privilege in response to the Committee's request for information, and (3) whether any other provisions of state or federal law would operate to limit the Committee's access to information.

We will turn next to your first question, and begin our discussion with the Committee's authority to review records and other information under its general statute, § 50-1205 (7).

We have found no Nebraska cases which directly address the scope of the Committee's authority to obtain "confidential" or privileged information as it goes about its responsibilities to conduct performance audits. Nor are there any Nebraska statutes which directly address that issue. Our research also indicates that there is little law from other jurisdictions which is helpful in this area. Therefore, we would first point out that the law concerning your initial inquiry is not clear. However, we can again offer several observations concerning the Committee's authority to obtain "confidential" information.

First of all, on its face, § 50-1205 (7) does not appear to contain any restrictions upon the Committee's authority to obtain access to records, including confidential records. Nonetheless, as we discussed above in

response to your second question, the Auditor appears to have more general authority to examine confidential records than does the Committee, based upon § 84-305. It seems to us that the Auditor's broader statute might form the basis for an argument that the Committee does not have authority to access confidential or "nonpublic" information under § 50-1205 (7) alone.

It also might be argued that certain other Nebraska statutes impact the Committee's ability to access confidential information. For example, Neb. Rev. Stat. § 84-712.05 (Cum. Supp. 2002), which is part of the Nebraska Public Records Statutes, Neb. Rev. Stat. §§ 84-712 through 84-712.09 (1999, Cum. Supp. 2002), sets out a number of categories of records which may be kept confidential from the public at the discretion of the custodian of those records, and that statute could form the basis for an assertion of confidentiality in response to a Committee audit request.² However, we have indicated in the past that, in our view, the Public Records Statutes do not provide a basis to deny the Auditor access to particular records for audit purposes. Op. Att'y Gen. No. 92116 (October 9, 1992). In addition, there is some case authority from other jurisdictions for the proposition that exemptions from disclosure under a state freedom of information statute only limit disclosure under the public's general right to review records, and do not limit disclosure to any agency vested with investigative or subpoena power. *Head v. Colloton*, 331 N.W.2d 870 (Ia. 1983). For those reasons, we believe that § 84-712.05 limits the public's right to access records under the Public Records Statutes rather than the Committee's authority to review confidential records as a part of a performance audit.

There are also evidentiary privileges set out at Neb. Rev. Stat. §§ 27-501 through 27-513 (1995) and in common law. Those privileges allow certain communications such as those between an attorney and client or a physician and patient to be kept confidential. Authorities which have considered application of those privileges in the context of audits have come to varying conclusions.

The Attorney General of North Dakota has indicated that privileges set out in the North Dakota Rules of Evidence such as the attorney/client privilege apply only to court proceedings, and do not prevent the release of attorney billing information to the North Dakota State Auditor.³ Op. N.D. Att'y Gen. No. L-1 (January 17, 1995). Similarly, the Attorney General of Delaware opined that a county auditor could review certain county billing records, even if they included potential information subject to the attorney/client privilege.⁴ Op. Del. Att'y Gen. No. 04-IB09 (April 15, 2004). On the other hand, in *Kyle v. Louisiana Public Service Commission*, 2004 WL 691662 (La. Ct. App. April 2, 2004), the Louisiana Court of Appeals held that the Public Service Commission in Louisiana could assert both the attorney/client privilege and the deliberative process privilege to limit access to information sought by the legislative auditor in Louisiana in connection with a performance audit.⁵ And, the Attorney General of Missouri has indicated that in situations where the attorney/client privilege or the attorney work product privilege is properly assertable in pending or imminent

litigation, the state auditor is not entitled to access to the litigation records of an agency. Op. Mo. Att'y Gen. No. 74-87 (October 5, 1987).

As a result, it is not at all clear whether evidentiary or common law privileges may be properly asserted with respect to a performance audit by the Committee. Moreover, we would also point out that a performance audit by the Committee is an audit of executive branch agencies by the Legislature and the legislative branch of government. Floor Debate on LB 607, 98th Neb. Leg., 1st Sess. 41 (February 12, 2003)(Statement of Sen. Schimek). That, in turn, raises questions regarding whether certain privileges which might be raised by an executive agency such as the executive privilege or the deliberative process privilege could raise separation of powers issues under art. II, § 1 of the Nebraska Constitution. For example, the Attorney General of Maryland has indicated that a statute which purports to give a legislative auditor authority to examine any record pertinent to an executive agency's performance cannot exceed those powers allocated to the legislative branch under the constitution and separation of powers principles. Op. Md. Att'y Gen. No. 91-014 (March 18, 1991).

We would also note that there may well be federal statutes which could operate to limit the Committee's access to certain information in the possession of executive agencies in Nebraska. However, at this point, we have not attempted to search all existing federal laws in an effort to locate such statutes. If you have specific statutes in mind, or if an agency offers a federal statute as a reason for confidentiality in the process of an audit by the Committee, then we will be happy to provide our views as to the applicability of that statute to the Committee's information request at that time.

Finally, we will briefly discuss the Committee's authority to review records and other information under § 50-1205 (8), the statute which allows the Committee to issue subpoenas and compel the production of papers, books, accounts and documents.

We assume that the Committee's subpoena power would be exercised under Section 20 of Rule 3 of the Rules of the Nebraska Legislature. Rules of the Nebraska Unicameral Legislature, Rule 3, § 20 (January 9, 2004). Subsection (F)(iii) of that section provides that "[a]ny person who appears before a committee pursuant to this section shall have all the rights, privileges, and responsibilities of a witness provided to all other witnesses." That subsection appears to allow witnesses before a legislative committee to assert evidentiary privileges such as the attorney/client privilege, and those privileges would presumably extend to documents produced under a subpoena duces tecum in connection with a performance audit.

Summary

To summarize the discussion above, we believe that the Auditor's general authority to review records in the context of an audit is broader than that of

the Committee. That result may allow an argument that the Committee has less authority to review confidential records than does the Auditor. We also do not believe that the confidentiality provisions of the Public Records Statutes limit access by the Committee to agency records. However, agencies may well be able to assert evidentiary privileges in response to records requests from the Committee in connection with an audit, particularly when the records at issue implicate separation of powers issues and privileges. Some of the current uncertainties in the statutes could be remedied by clarifying legislation. In that regard, we would point out that it may be easier to overcome an evidentiary privilege in an audit by the Committee if there is a statutory provision similar to Neb. Rev. Stat. § 84-311 (1999) which places strictures on the Committee and its staff with respect to the unauthorized release of information obtained in an audit.

¹In our Op. Att'y Gen. No. 02030 (December 2, 2002), we indicated that the Auditor of Public Accounts has inherent constitutional authority to conduct financial audits apart from his or her responsibilities under statute. For purposes of this opinion, we will focus on the statutory authority of the Auditor as it compares with that of the Committee, inasmuch as it appears to us that, while the Legislature as a body has inherent investigatory authority in the context of a proper legislative task, the Committee's authority is created primarily by statute and the Rules of the Legislature.

²It may well be that the "nonpublic" information at issue in the passage of § 84-305 was the information described in § 84-712.05. Whether that is, in fact, the case is not addressed in the legislative history of § 84-305.

³The North Dakota statutes at issue allowed the State Auditor to review "all information relating to operations of all governmental units subject to audit."

⁴The Delaware statutes at issue allowed the county auditor to access "any and all books, records and accounts of each office, department or board of the county."

⁵The deliberative process privilege protects confidential, intra-agency advisory opinions, disclosure of which would be injurious to the consultative functions of government. *Kyle v. Louisiana Public Service Commission*, 2004 WL 691662 (La. Ct. App. April 2, 2004)

Sincerely yours,
JON BRUNING
Attorney General
(Signed) Dale A. Comer
Assistant Attorney General

cc: Patrick O'Donnell
Clerk of the Legislature

05-268-21

Opinion 04030

DATE: December 27, 2004

SUBJECT: Briefing Materials And Legal Memoranda Filed With
A Court As Public Records

REQUESTED BY: Senator Patrick J. Bourne
Nebraska State Legislature

WRITTEN BY: Jon Bruning, Attorney General
Dale A. Comer, Assistant Attorney General

In your opinion request letter, you indicate that you are considering potential legislation during the upcoming legislative session which would deal with court documents and the public records laws. Consequently, you have asked us, "are briefs and reply briefs submitted to a judge in a state district court action considered public records even though the briefs are not filed with the clerk of the court?"

Cases from the Nebraska Supreme Court have considered the public's right to access judicial records in two different contexts. First of all, in *State v. Cribbs*, 237 Neb. 947, 469 N.W.2d 108 (1991), the court indicated that there is a common-law right of access to judicial records, as recognized by the United State Supreme Court in *Nixon v. Warner Communications, Inc.*, 435 U.S. 589 (1978). The *Cribbs* case involved access to psychiatrist reports, medical and mental evaluations and other documents made a part of the official record in a hearing conducted to review the status of a person acquitted of first degree murder on grounds of insanity. In *Cribbs*, the court also stated that the common-law right to inspect and copy judicial records is not absolute, but that "[e]very court has supervisory power over its own records and files, and access has been denied where court files might have become a vehicle for improper purposes,' such as in divorce cases." *Cribbs*, 237 Neb. at 950, 469 N.W.2d at 110 (quoting *Nixon v. Warner Communications, Inc.*, 435 U.S. at 598).

The *Cribbs* case involved a right of access to evidence adduced at a judicial hearing rather than access to briefing materials or memoranda submitted to the court. However, other authorities have extended the common-law right to legal memoranda. In *re Providence Journal Company, Inc.*, 293 F.3d 1 (1st Cir. 2002); *The Republican Company v. Appeals Court*, 442 Mass. 218, 812 N.E.2d 887 (2004). In the federal case, the First Circuit stated that:

This presumptive [common-law] right of access attaches to those materials "which properly come before the court in the course of an adjudicatory proceeding and which are relevant to that adjudication." It

follows, then, that the common-law right of access extends to "materials on which a court relies in determining the litigants' substantive rights."

In *re Providence Journal Company, Inc.*, 293 F.3d 9, 10 (citations omitted). As a result, it appears to us that there is likely a common-law right for members of the public to access briefs and legal memoranda in Nebraska. However, that right is not absolute, and is subject to a court's supervisory power over its own records and files.

Apart from any common-law right to inspect records, the Nebraska Public Records Statutes, Neb. Rev. Stat. §§ 84-712 through 84-712.09 (1999, Cum. Supp. 2002), pertain specifically to the public's right to review government records and documents. Two portions of those statutes are of particular pertinence. Section 84-712 (1) provides:

Except as otherwise expressly provided by statute, all citizens of this state, and all other persons interested in the examination of the public records, as defined in section 84-712.01, are hereby fully empowered and authorized to (a) examine the same, and make memoranda, copies using their own copying or photocopying equipment in accordance with subsection (2) of this section, and abstracts therefrom, all free of charge, during the hours the respective offices may be kept open for the ordinary transaction of business and (b) except if federal copyright law otherwise provides, obtain copies of public records in accordance with subsection (3) of this section during the hours the respective offices may be kept open for the ordinary transaction of business.

The basic language of § 84-712 (1) has been in the Nebraska statutes since 1866. In addition, § 84-712.01 contains the following definition for public records in Nebraska:

Except when any other statute expressly provides that particular information or records shall not be made public, public records shall include all records and documents, regardless of physical form, of or belonging to this state, any county, city, village, political subdivision, or tax-supported district in this state, or any agency, branch, department, board, bureau, commission, council, subunit, or committee of any of the foregoing. Data which is a public record in its original form shall remain a public record when maintained in computer files.

Based upon the broad language of §§ 84-712 (1) and 84-712.01, and in particular upon the language in § 84-712.01 which includes records of any "branch" or "department" of state government in the definition of public records, it would seem that judicial records are subject to those statutes. That conclusion is supported by several Nebraska cases.

In *State ex rel. Griggs v. Meeker*, 19 Neb. 106, 26 N.W. 620 (1886), the court held that the fee-book maintained by the clerk of the district court was

a public record. Similarly, the court held that dockets of a justice of the peace containing entries of judgment were public records. *State ex rel. Newby v. Ellsworth*, Justice of the Peace, 61 Neb. 444, 85 N.W. 439 (1901). In both of those cases, the court cited and quoted the language of a predecessor statute to § 84-712.

In *Orr v. Knowles*, 215 Neb. 49, 337 N.W.2d 699 (1983), the United States District Court for the District of Nebraska certified several questions of law to the Nebraska Supreme Court involving Neb. Rev. Stat. § 28-347 (Cum. Supp. 1982), a statute which prohibited abortions for minors in Nebraska without notice to the minor's parents or legal guardian. Subsection (2) of § 28-347 allowed a court to waive the notice requirement when petitioned to do so by the minor, and required a court to "maintain confidentiality" as to all such proceedings. The federal court asked the Nebraska Supreme Court whether the confidentiality provisions of § 28-347 (2) constituted an exception to the access requirements of § 84-712 and Neb. Rev. Stat. § 24-311 (1979).¹ Ultimately, the Nebraska Supreme Court ruled that § 28-347 (2) did constitute an exception to §§ 84-712 and 24-311. In reaching that result, the court stated:

While both of these statutes [§§ 84-712 and 24-311] state that judicial proceedings and records are matters of public interest, neither statute is absolute. Both provide that exceptions may be created by express and special provisions.

215 Neb. at 54, 55, 337 N.W.2d at 703. The fact that the Nebraska court considered the issue of whether § 28-347 (2) constituted an exception to disclosure of judicial records under the Public Records Statutes bolsters the notion that those statutes do apply to court records as well as to records of the other branches of government.

Therefore, it appears to us that records "of or belonging to" the judicial department of state government are records subject to the Public Records Statutes. Moreover, while the Nebraska Supreme Court has not specifically considered the issue, we believe that the court would be inclined to consider briefs and legal memoranda to be public records, even though those materials are not filed with the clerk of the court. That latter conclusion is based upon the broad language of the Public Records Statutes and the common-law case authorities cited above. Obviously, for your legislative purposes, the statutes could also be amended in some fashion to specifically include briefs and legal memoranda as public records.

We would offer several additional observations. First, to the extent that briefs and legal memoranda are subject to the Public Records Statutes, they are also subject to the provisions of § 84-712.05 which allow certain categories of records to be kept confidential. Second, the courts may possibly take the position that any obligation which they have to produce records including briefs and legal memoranda under the Public Records Statutes is subject to their supervisory power over their own records and

files. Finally, we would point out that when a public body or public agency is a party litigant, access to briefing materials in the litigation may be obtained from the public entity as well as from the courts, inasmuch as those briefing materials would presumably also be records "of or belonging to" the public entity.

¹Neb. Rev. Stat. § 24-311 (1979) provided:

All judicial proceedings of all courts established in this state must be open to the attendance of the public unless otherwise specially provided by statute.

Sincerely yours,
JON BRUNING
Attorney General
(Signed) Dale A. Comer
Assistant Attorney General

05-294-21

REPORTS

The following reports were received by the Legislature:

Administrative Services, Department of

Annual Budgetary Report for year ended June 30, 2004

Comprehensive Annual Financial Report year ended June 30, 2003

Project Status Summaries as of June 2004

Risk Management/State Claims Board, 2003-2004 Tort-Miscellaneous,
Contract-Indemnification

Agriculture, Department of

Beginning Farmer Tax Credit Act Annual Report

Arts Council

Arts and Humanities Cash Fund Report

Attorney General

2003 Annual Report

Auditor of Public Accounts

Attestation report for the following:

Commission on the Status of Women, year ended June 30, 2004

Revenue, Department of, as of 6/30/2003

Audit reports for the following:

Nebraska Lottery

Retirement Systems, Public Employees - State and County Employees
Retirement Plans

Correctional Services, Department of

Work Ethic Camp Annual Report

Economic Development, Department of

2004 Annual Report for the Venture Capital Forum Program

2004 Annual Report on Grants Conditionally Approved for Funding by
the Legislature

2005 Proposed Annual Action Plan of Housing and Community Development Programs
 2005-2009 Proposed Consolidated Plan of Housing and Community Development Programs

Environmental Quality, Department of

2004 Annual Report
 Class I Program Appropriations Report

Fire Marshal, State

Volunteer Emergency Responders Recruitment and Retention Act

Fiscal Office, Legislative

Certification of General Fund net receipts for fiscal year beginning July 1, 2004. Monthly receipt estimates derived from the annual net receipt estimate of the Economic Forecasting Advisory Board produced February 27, 2004

Revised Biennial Budget Report for FY2003-04 and FY2004-05

Foster Care Review Board, State

Annual Report

Game and Parks Commission

2004 Recreation Road Report
 Game Law Investigation Cash Fund Annual Report

Government, Military and Veterans Affairs Committee, Legislature

2004 Nebraska Boards and Commissions Report

Health and Human Services System

Behavioral Health Implementation Plan (LB 1083)
 Community Service Program Employable General Assistance Recipients Annual Report

Cost Sharing in the Medicaid Program Annual Report
 LB 692 Report, 2004

Medicaid Eligibility of LB 8 Changes, Annual Report
 Office of the System Advocate Quarterly Reports, January-March 2004, April-June 2004, and July-September 2004

Report - Number of adults declared ineligible for cash assistance under Section 68-1723

Women's Health, Office of, Annual Report

Information Technology Commission

Biennial Progress Report
 Recommendations on Technology Investments, FY 2005-07 Biennium

Insurance, Department of

2003 Annual Report of the Interstate Insurance Receivership Commission

Investment Council

Health Care Endowment Fund (Tobacco Settlement Plus Medicaid IGT) Reports
 Northern Ireland Investment Requirements Report

Investment Finance Authority

2002 Series A, B, C, D, E and F Community Development Loan Notes (City of Lincoln Program-2002) Quarterly Reports
 2004 Series C, D & E Single Family Housing Revenue Bonds
 2004 Series F & G Single Family Housing Revenue Bonds
 2004 Series G.O.-17 General Obligation Bonds

2004 Series G.O.-18 General Obligation Bonds

Clean Water State Revolving Fund Revenue Bonds Series 2004 A
Quarterly Report

Clean Water State Revolving Fund Revenue Bonds Series 2004B Notice

Drinking Water State Revolving Fund Revenue Bonds Series 2002 A,
Quarterly Report

Drinking Water State Revolving Fund Revenue Bonds Series 2003 A,
Quarterly Reports

Drinking Water State Revolving Fund Revenue Bonds Series 2004 A,
Notice

Single Family Housing Revenue Bonds Series 2004 AB and General
Obligation Bonds Series 2004 G.O.-16

Single Family Housing Revenue Bonds Series 2004 CDE and General
Obligation Bonds Series 2004 G.O.-17

Justice, Department of (See Attorney General)

Labor, Department of

Workforce Development, Meatpacking Industry Worker Bill of Rights
2004 Annual Report

Workforce Investment Board 2003 Annual Report

Workforce Investment Board modifications to the Strategic Five Year
Plan

Legislative Research Division (See Research Division, Legislative)

Liquor Control Commission

Report concerning effectiveness of keg registration legislation

Natural Resources, Department of

Annual Report and Plan of Work for the Nebraska State Water Planning
and Review Process

Resources Development Fund, 2004 Biennial Report

Motor Vehicles, Department of

2003 Annual Report

Parole Board

Annual Report

Patrol, State

2004 Winter Report

Postsecondary Education, Coordinating Commission for

2003-2004 Biennial Report

Power Review Board

"Conditions Certain" Annual Report

Property Assessment and Taxation, Department of

2004 Report of the Greenbelt Advisory Committee

Public Service Commission

2004 Annual Report on Telecommunications

Research Division, Legislative

Boards and Commissions in Nebraska, 2004

Performance Audit Committee Report entitled The Lincoln Regional
Center's Billing Process

Retirement Systems, Public Employees

County Employees' Retirement System Cash Balance Benefit Fund

Judges' Retirement System, Thirty-ninth Actuarial Report for State Fiscal Year Ending June 30, 2006 and System Plan Year Beginning July 1, 2004

School Retirement System, Fifty-second Actuarial Report for State Fiscal Year Ending June 30, 2006 and System Plan Year Beginning July 1, 2004

State Employees' Retirement System Cash Balance Benefit Fund

State Patrol Retirement System, Forty-ninth Actuarial Report for State Fiscal Year Ending June 30, 2006 and System Plan Year Beginning July 1, 2004

Revenue, Department of

2004 Tax Expenditure Report

Auditor of Public Accounts Report of Examination for Fiscal Year ended June 30, 2003

Certification of General Fund net receipts for fiscal year beginning July 1, 2004. Monthly receipt estimates derived from the annual net receipt estimate of the Economic Forecasting Advisory Board produced February 27, 2004

EPIC Report

Invest Nebraska Fund Audit Report

Nebraska Lottery Annual Report, 2004

Roads, Department of

2004 Annual Report

Board of Examiners for County Highway and City Street Superintendents Annual Report

Board of Public Roads Classifications and Standards Minutes for March, April, May, June, July, and September 2004

Recreation Roads One-Year Plan of Anticipated Design, Construction and Improvement

Recreation Roads Five-Year Plan of Anticipated Design, Construction and Improvement

State Highway Commission Quarterly Reports

State Highway Inventory Supplemental Report for the 2003 State Highway Needs Assessment

State Highway Needs Assessment for 2004

Traffic Accident Facts Annual Report

Secretary of State

Vote Nebraska Initiative Report

Supreme Court

Office of Probation Administration's 2002-2003 Biennial Report

University of Nebraska

Increasing Minority and Women Faculty Progress Report

Workforce Development (See Labor, Department of)

COMMUNICATION

Received a copy of Senate Resolution No. 115 from the State of Louisiana relating to memorializing the Congress of the United States to defeat legislation creating the Central American Free Trade Agreement.

COMMITTEE ON COMMITTEES PRELIMINARY REPORT

Senator Dw. Pedersen offered the following Committee on Committees report:

Agriculture - Kremer (C)

Burling Chambers	Cunningham Erdman	Fischer Preister	Wehrbein
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Appropriations - Pederson, D. (C)

Beutler Cudaback	Engel Heidemann	Kruse Price	Synowiecki Thompson
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Banking, Commerce and Insurance - Mines (C)

Flood Jensen	Johnson Langemeier	Louden Pahls	Redfield
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Business and Labor - Cunningham (C)

Burling Chambers	Combs Kremer	Preister Schimek
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Education - Raikes (C)

Bourne Byars	Howard Kopplin	McDonald Schrock	Stuhr
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General Affairs - Janssen (C)

Connealy Cornett	Erdman Fischer	Friend Landis	Wehrbein
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Government, Military and Veterans Affairs - Schimek (C)

Brown Burling	Fischer Langemeier	Mines Pahls	Wehrbein
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Health and Human Services - Jensen (C)

Byars Cunningham	Erdman Howard	Johnson Stuthman
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Judiciary - Bourne (C)

Aguilar Chambers	Combs Flood	Foley Friend	Pedersen, Dw.
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Natural Resources - Schrock (C)

Hudkins Kopplin	Kremer Louden	McDonald Smith	Stuhr
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Nebraska Retirement Systems - Stuhr (C)

Bourne Erdman	Pederson, D. Price	Synowiecki
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Revenue - Landis (C)

Baker Connealy	Cornett Janssen	Preister Raikes	Redfield
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Transportation and Telecommunications - Baker (C)

Aguilar Brown	Foley Hudkins	Pedersen, Dw. Smith	Stuthman
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Urban Affairs - Friend (C)

Combs Connealy	Cornett Janssen	Landis Schimek
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Committee on Committees - Pedersen, Dw. (C)

Bourne Brashear Cudaback	Engel Jensen Kremer	Landis Pederson, D. Preister	Price Schimek Schrock
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Enrollment and Review - Flood (C)

Reference - Engel (C)

Beutler Brashear Chambers	Cudaback Erdman McDonald	Pederson, D. Stuthman Thompson
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Rules - Hudkins (C)

Baker Beutler	Brashear Cornett	Thompson
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Executive Board - Engel (C)

Beutler	Cudaback	Pederson, D.
Brashear	Erdman	Stuthman
Chambers	McDonald	Thompson

Intergovernmental Cooperation - Aguilar (C)

Brashear	Combs	McDonald
Brown	Langemeier	Lt. Gov. Heineman

ANNOUNCEMENT

The Committee on Committees elected Senator Preister as Vice Chairperson.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 1. Introduced by Executive Board: Engel, 17, Chairperson.

FOR AN ACT relating to motor vehicles; to amend sections 60-484 to 60-484.02, 60-490, 60-4,115, 60-4,119, 60-4,120, 60-4,120.01, and 60-4,150, Reissue Revised Statutes of Nebraska; to eliminate obsolete provisions; to harmonize provisions; to repeal the original sections; and to outright repeal section 60-1516, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 2. Introduced by Executive Board: Engel, 17, Chairperson.

FOR AN ACT relating to health care facilities; to amend section 71-428, Revised Statutes Supplement, 2004; to correct an internal reference that includes outright repealed sections; and to repeal the original section.

LEGISLATIVE BILL 3. Introduced by Executive Board: Engel, 17, Chairperson.

FOR AN ACT relating to recreational lands; to amend section 37-734, Reissue Revised Statutes of Nebraska; to eliminate an exception found unconstitutional and severable in *Teters v. Scottsbluff Public Schools*, 256 Neb. 645, 592 N.W.2d 155 (1999); and to repeal the original section.

LEGISLATIVE BILL 4. Introduced by Thompson, 14.

A BILL FOR AN ACT relating to juveniles; to adopt the Interstate Compact for Juveniles; to provide for a compact administrator and an advisory council; and to outright repeal sections 43-1001 to 43-1010, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 5. Introduced by Thompson, 14.

A BILL FOR AN ACT relating to the State Board of Education; to amend section 79-313, Reissue Revised Statutes of Nebraska; to change qualifications for membership; and to repeal the original section.

LEGISLATIVE BILL 6. Introduced by Thompson, 14.

A BILL FOR AN ACT relating to smoking and tobacco; to amend section 71-5707, Revised Statutes Supplement, 2004; to repeal the authority to establish certain designated smoking areas; and to repeal the original section.

LEGISLATIVE BILL 7. Introduced by Dw. Pedersen, 39.

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend section 60-6,157, Reissue Revised Statutes of Nebraska; to permit municipalities to allow pedestrians to solicit contributions on roadways as prescribed; to harmonize provisions; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 8. Introduced by Landis, 46; Schrock, 38.

A BILL FOR AN ACT relating to environmental covenants; to amend section 76-288, Reissue Revised Statutes of Nebraska; to adopt the Uniform Environmental Covenants Act; to harmonize provisions; to provide severability; and to repeal the original section.

LEGISLATIVE BILL 9. Introduced by Landis, 46.

A BILL FOR AN ACT relating to county zoning; to amend section 23-174.03, Reissue Revised Statutes of Nebraska; to change provisions relating to subdivision plats; and to repeal the original section.

LEGISLATIVE BILL 10. Introduced by Landis, 46.

A BILL FOR AN ACT relating to wages; to amend section 48-1220, Reissue Revised Statutes of Nebraska; to modify the definition of employer for purposes of sexual discrimination; and to repeal the original section.

LEGISLATIVE BILL 11. Introduced by Landis, 46.

A BILL FOR AN ACT relating to state government; to authorize use of electronic postmarks as prescribed.

LEGISLATIVE BILL 12. Introduced by Landis, 46.

A BILL FOR AN ACT relating to workers' compensation; to amend sections 48-120.02, 48-145, 48-145.01, 48-146.02, 48-152, 48-162.01, and 48-188, Reissue Revised Statutes of Nebraska; to change provisions relating to enforcement of the Nebraska Workers' Compensation Act; and to repeal the original sections.

LEGISLATIVE BILL 13. Introduced by Landis, 46.

A BILL FOR AN ACT relating to workers' compensation; to amend sections 48-121.02, 48-144, 48-144.03, 48-145.02, 48-145.04, 48-155, 48-157, 48-158, 48-159, 48-162, 48-162.02, 48-163, 48-165, and 48-1,116, Reissue Revised Statutes of Nebraska; to change provisions relating to court administration; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 14. Introduced by Landis, 46.

A BILL FOR AN ACT relating to the State Natural Gas Regulation Act; to amend sections 66-1840 and 66-1841, Reissue Revised Statutes of Nebraska; to change provisions relating to the Public Service Commission; and to repeal the original sections.

LEGISLATIVE BILL 15. Introduced by Landis, 46.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 60-3005, 60-3006, 77-1345.01, 77-1510, 77-4105, 77-5018, 77-5019, 77-5026, and 77-5028, Reissue Revised Statutes of Nebraska, and sections 77-202.04, 77-1514, 77-5004, 77-5005, 77-5007, and 77-5016, Revised Statutes Supplement, 2004; to change appeal procedures; to change deadlines as prescribed; to change and eliminate provisions relating to the Tax Equalization and Review Commission; to harmonize provisions; to repeal the original sections; to outright repeal section 77-5032, Reissue Revised Statutes of Nebraska; and to declare an emergency.

LEGISLATIVE BILL 16. Introduced by Landis, 46.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2712.05, Revised Statutes Supplement, 2004; to change provisions relating to the streamlined sales and use tax agreement; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 17. Introduced by Landis, 46.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-3508, Reissue Revised Statutes of Nebraska; to change application procedures for homestead exemptions as prescribed; and to repeal the original section.

LEGISLATIVE BILL 18. Introduced by Landis, 46.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-1719.03, Reissue Revised Statutes of Nebraska; to change a provision relating to collection of delinquent property taxes; and to repeal the original section.

LEGISLATIVE BILL 19. Introduced by Landis, 46.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2734.02, Reissue Revised Statutes of Nebraska; to change corporate income tax calculations; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 20. Introduced by Kremer, 34; Schrock, 38.

A BILL FOR AN ACT relating to the Livestock Brand Act; to amend sections 54-170, 54-171, 54-183, and 54-415, Reissue Revised Statutes of Nebraska; to define a term; to change provisions relating to feral swine; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 21. Introduced by Erdman, 47.

A BILL FOR AN ACT relating to the State Boat Act; to amend section 37-1241.07, Reissue Revised Statutes of Nebraska; to eliminate a restriction on operation of leased watercraft as prescribed; and to repeal the original section.

LEGISLATIVE BILL 22. Introduced by Erdman, 47.

A BILL FOR AN ACT relating to cities of the second class and villages; to amend section 17-522, Reissue Revised Statutes of Nebraska; to change provisions relating to sidewalk construction, repair, and maintenance; to provide for owner liability in certain cases; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 23. Introduced by Erdman, 47.

A BILL FOR AN ACT relating to the Game and Parks Commission; to amend section 37-101, Reissue Revised Statutes of Nebraska; to change provisions relating to membership and terms; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 24. Introduced by Erdman, 47; Combs, 32; Flood, 19.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-6,151, Reissue Revised Statutes of Nebraska; to provide requirements for drivers near parked authorized emergency vehicles; and to repeal the original section.

LEGISLATIVE BILL 25. Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to the Board of Cosmetology Examiners; to amend sections 71-374 and 71-375, Reissue Revised Statutes of Nebraska; to add members to the board; to delete obsolete provisions; to harmonize

provisions; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 26. Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to body art; to amend section 71-3,236, Revised Statutes Supplement, 2004; to prohibit the performance or application of body art on or to certain persons; and to repeal the original section.

LEGISLATIVE BILL 27. Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to body art; to amend section 71-340, Revised Statutes Supplement, 2004; to provide for special body art events; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 28. Introduced by Connealy, 16; Baker, 44; Bourne, 8.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-2701, Revised Statutes Supplement, 2004; to provide an income tax credit for certain charitable contributions; to provide a termination date; to create a commission; to provide operative dates; and to repeal the original section.

LEGISLATIVE BILL 29. Introduced by Schrock, 38.

A BILL FOR AN ACT relating to wildlife; to amend section 37-524.01, Reissue Revised Statutes of Nebraska; to change provisions relating to feral swine; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 30. Introduced by Natural Resources Committee: Schrock, 38, Chairperson; Hudkins, 21; Kremer, 34; Loudon, 49; McDonald, 41; Stuhr, 24.

A BILL FOR AN ACT relating to liquefied petroleum gas; to require a notice to customers; to provide for immunity from damages for retailers, suppliers, handlers, and transporters as prescribed.

LEGISLATIVE BILL 31. Introduced by Schrock, 38.

A BILL FOR AN ACT relating to the Nebraska Ground Water Management and Protection Act; to amend section 46-735, Reissue Revised Statutes of Nebraska; to change provisions relating to construction of water wells in ground water management areas as prescribed; and to repeal the original section.

LEGISLATIVE BILL 32. Introduced by Schrock, 38.

A BILL FOR AN ACT relating to natural resources districts; to amend

section 2-3218, Revised Statutes Supplement, 2004; to change provisions relating to per diem payments for board members as prescribed; and to repeal the original section.

LEGISLATIVE BILL 33. Introduced by Schrock, 38.

A BILL FOR AN ACT relating to the Nebraska Litter Reduction and Recycling Act; to amend section 81-1566, Revised Statutes Supplement, 2004; to change a termination date; and to repeal the original section.

LEGISLATIVE BILL 34. Introduced by Schrock, 38.

A BILL FOR AN ACT relating to the Game Law; to amend section 37-201, Reissue Revised Statutes of Nebraska; to provide for hunting, trapping, and target practice in designated public areas; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 35. Introduced by Schimek, 27.

A BILL FOR AN ACT relating to elections; to amend sections 23-3557, 23-3575, 32-331, 32-558, 32-559, 32-807, 32-808, 32-936, 32-938 to 32-952, 32-958, 32-1027, 32-1030, 32-1031, 32-1032, 32-1502, 32-1539, 32-1544, 42-1207, and 53-122, Reissue Revised Statutes of Nebraska, and section 10-703.01, Revised Statutes Supplement, 2004; to provide for early voting; to delete references to absentee voting; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 36. Introduced by Schimek, 27.

A BILL FOR AN ACT relating to elections; to amend sections 32-101, 32-115, 32-302, 32-306, 32-308, 32-310, 32-319, 32-321, 32-325, 32-914, 32-933, 32-935 to 32-937, 32-940, 32-941, 32-945, 32-1503, 32-1528, and 32-1531, Reissue Revised Statutes of Nebraska; to provide for voter registration on election day as prescribed; to change provisions relating to registration and voting; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 37. Introduced by Schimek, 27.

A BILL FOR AN ACT relating to public lands, buildings, and funds; to amend sections 72-724 and 72-728, Reissue Revised Statutes of Nebraska; to change provisions involving appointments to the Nebraska Hall of Fame Commission; to require public hearings; to modify qualifications for inductees to the Nebraska Hall of Fame; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 38. Introduced by Raikes, 25; D. Pederson, 42.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections

77-3442 and 85-1536.01, Revised Statutes Supplement, 2004; to authorize an additional levy by community colleges as prescribed; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 39. Introduced by Raikes, 25.

A BILL FOR AN ACT relating to the State Forester; to amend section 85-162.04, Reissue Revised Statutes of Nebraska; to change provisions relating to personnel; and to repeal the original section.

LEGISLATIVE BILL 40. Introduced by Redfield, 12; Jensen, 20; Synowiecki, 7.

A BILL FOR AN ACT relating to real property; to amend sections 76-901, 76-903, and 77-1327, Reissue Revised Statutes of Nebraska; to change the documentary stamp tax fee; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 41. Introduced by Redfield, 12.

A BILL FOR AN ACT relating to public funds; to amend section 77-2365.01, Revised Statutes Supplement, 2004; to change provisions relating to deposits with certain credit unions; and to repeal the original section.

LEGISLATIVE BILL 42. Introduced by Redfield, 12.

A BILL FOR AN ACT relating to liens; to amend sections 52-125, 52-126, 52-127, 52-132, 52-140, 52-141, 52-142, 52-145, 52-154, 52-155, 52-157, and 52-159, Reissue Revised Statutes of Nebraska; to change provisions relating to the Nebraska Construction Lien Act; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 43. Introduced by Redfield, 12.

A BILL FOR AN ACT relating to employment; to provide immunity for employers for disclosure of employment information as prescribed.

LEGISLATIVE BILL 44. Introduced by Redfield, 12.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-3501, 77-3509.01 to 77-3509.03, 77-3510 to 77-3514, 77-3516, 77-3521, 77-3522, 77-3523, and 77-3529, Reissue Revised Statutes of Nebraska, and section 77-2716.01, Revised Statutes Supplement, 2004; to change income tax deductions as prescribed; to create a homestead exemption; to harmonize provisions; to provide operative dates; and to repeal the original sections.

LEGISLATIVE BILL 45. Introduced by Redfield, 12.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-3501, 77-3509.01 to 77-3509.03, 77-3510 to 77-3514, 77-3516, 77-3521, 77-3522, 77-3523, and 77-3529, Reissue Revised Statutes of Nebraska, and section 77-2716.01, Revised Statutes Supplement, 2004; to change income tax deductions as prescribed; to create a homestead exemption; to harmonize provisions; to provide operative dates; and to repeal the original sections.

LEGISLATIVE BILL 46. Introduced by Redfield, 12.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-3501, 77-3509.01 to 77-3509.03, 77-3510 to 77-3514, 77-3516, 77-3521, 77-3522, 77-3523, and 77-3529, Reissue Revised Statutes of Nebraska, and section 77-2716.01, Revised Statutes Supplement, 2004; to change income tax deductions as prescribed; to create a homestead exemption; to harmonize provisions; to provide operative dates; and to repeal the original sections.

LEGISLATIVE BILL 47. Introduced by Landis, 46; Beutler, 28.

A BILL FOR AN ACT relating to postsecondary education; to adopt the Distinguished Professorship Act.

LEGISLATIVE BILL 48. Introduced by Landis, 46.

A BILL FOR AN ACT relating to natural gas; to amend sections 66-1801, 66-1804, 66-1852, and 75-109.01, Reissue Revised Statutes of Nebraska, and section 13-2802, Revised Statutes Supplement, 2004; to change provisions relating to the State Natural Gas Regulation Act; to provide and change powers and duties; to repeal the original sections; and to outright repeal sections 57-1301 to 57-1307, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 49. Introduced by Landis, 46.

A BILL FOR AN ACT relating to securities; to amend sections 8-1723, 8-1726, 21-2116, 44-708, 45-101.04, 45-191.09, 45-1004, 58-703, 58-711, 59-1715, 59-1722, 59-1724, 59-1725.01, 69-2117, 70-734, 76-882, 76-1304, 76-1717, 76-2120, and 81-1270, Reissue Revised Statutes of Nebraska, and sections 8-1122.01, 23-35, 116, 29-110, and 87-301, Revised Statutes Supplement, 2004; to adopt the Nebraska Uniform Securities Act; to provide penalties; to rename and create a fund; to eliminate certain provisions of the Securities Act of Nebraska; to eliminate obsolete language; to harmonize provisions; to provide severability; to provide an operative date; to repeal the original sections; and to outright repeal sections 8-1102, 8-1104, 8-1106, 8-1107, 8-1108, 8-1108.02, 8-1108.03, 8-1109, 8-1112, 8-1114, 8-1115, 8-1118, and 8-1119, Reissue Revised Statutes of Nebraska, and sections 8-1101, 8-1103, 8-1105, 8-1108.01, 8-1109.01, 8-1109.02, 8-1110, 8-1111, 8-1113, 8-1116, 8-1117, 8-1120, 8-1121, 8-1122, and 8-1123, Revised Statutes Supplement, 2004.

LEGISLATIVE BILL 50. Introduced by Landis, 46.

A BILL FOR AN ACT relating to housing; to amend sections 20-132, 20-134, 20-301, 20-303, 20-317, 20-318, 20-320, 20-321, 20-325, 68-1605, 71-15,134, and 76-1495, Reissue Revised Statutes of Nebraska, and section 20-139, Revised Statutes Supplement, 2004; to define terms; to prohibit discrimination based upon sexual orientation; to harmonize provisions; to provide severability; and to repeal the original sections.

LEGISLATIVE BILL 51. Introduced by Kremer, 34.

A BILL FOR AN ACT relating to the Department of Agriculture; to amend section 81-201, Revised Statutes Supplement, 2004; to authorize laboratory testing services; to create a fund; and to repeal the original section.

LEGISLATIVE BILL 52. Introduced by Kremer, 34.

A BILL FOR AN ACT relating to agriculture; to amend sections 75-903, 75-905, and 89-1,105, Reissue Revised Statutes of Nebraska, and sections 88-528 and 88-530.01, Revised Statutes Supplement, 2003; to change provisions relating to grain dealers, grain warehouses, and measuring devices; to provide operative dates; and to repeal the original sections.

LEGISLATIVE BILL 53. Introduced by Schimek, 27; Chambers, 11; Kruse, 13; Dw. Pedersen, 39.

A BILL FOR AN ACT relating to voting rights; to amend sections 32-312, 32-313, and 32-1530, Reissue Revised Statutes of Nebraska, and sections 29-112, 29-113, 29-2264, and 83-1,118, Revised Statutes Supplement, 2004; to provide for the restoration of voting rights upon completion of a felony sentence or probation for a felony; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 54. Introduced by Schimek, 27; Aguilar, 35; Janssen, 15; McDonald, 41; Preister, 5.

A BILL FOR AN ACT relating to veterans; to amend sections 12-104, 19-1830, 23-1309, 23-1310, 37-420, 48-225, 60-311.03, 60-311.04, 60-311.08, 60-3002, 71-605, 71-1002, 77-202.24, 77-3508, 77-3509, 77-3513, 77-3514, 80-102, 80-104, 80-105, 80-107, 80-316, 80-318, 80-325, 80-401.01, 80-401.03, 80-401.06, 80-410, and 80-412, Reissue Revised Statutes of Nebraska, and sections 12-1301 and 80-401.02, Revised Statutes Supplement, 2004; to redefine terms; to change qualifications; to reorganize provisions; to modify exemptions; to clarify eligibility for benefits; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 55. Introduced by Foley, 29.

A BILL FOR AN ACT relating to the Commission for the Blind and

Visually Impaired Act; to amend sections 71-8603 and 71-8612, Reissue Revised Statutes of Nebraska; to redefine a term; to change funding provisions; and to repeal the original sections.

LEGISLATIVE BILL 56. Introduced by Foley, 29.

A BILL FOR AN ACT relating to counties; to authorize counties to enact ordinances as prescribed; and to provide powers and duties.

LEGISLATIVE BILL 57. Introduced by Foley, 29.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 60-6,198, Reissue Revised Statutes of Nebraska, and section 28-101, Revised Statutes Supplement, 2004; to adopt the Assault of an Unborn Child Act; to provide penalties; to provide a penalty for causing serious bodily injury to an unborn child while driving under the influence; to harmonize provisions; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 58. Introduced by Mines, 18.

A BILL FOR AN ACT relating to employment; to amend sections 81-113, 81-117, and 84-1001, Reissue Revised Statutes of Nebraska; to eliminate recognition of holiday proclamations by the President of the United States; and to repeal the original sections.

LEGISLATIVE BILL 59. Introduced by Mines, 18.

A BILL FOR AN ACT relating to economic development; to amend section 81-1298, Revised Statutes Supplement, 2004; to change a definition in the Microenterprise Development Act; and to repeal the original section.

LEGISLATIVE BILL 60. Introduced by Mines, 18.

A BILL FOR AN ACT relating to insurance; to provide for priorities of coverage on rental cars.

LEGISLATIVE BILL 61. Introduced by Burling, 33.

A BILL FOR AN ACT relating to adoption; to amend section 43-146.17, Reissue Revised Statutes of Nebraska; to change provisions relating to access to information; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 62. Introduced by Beutler, 28; Friend, 10.

A BILL FOR AN ACT relating to medical liens; to amend section 52-401, Reissue Revised Statutes of Nebraska; to provide for liens for chiropractors; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 63. Introduced by Mines, 18.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-108, 60-117, 60-301, 60-304, 60-305.03, 60-305.04, 60-310, 60-311, 60-311.02 to 60-311.05, 60-311.07 to 60-311.14, 60-311.16, 60-311.17, 60-311.21, 60-311.23, 60-311.25, 60-315, 60-315.01, 60-320, 60-321, 60-323, 60-324, 60-331, 60-331.03, 60-334, 60-335, 60-345, 60-347, 60-361, 60-364, 60-683, 60-6,197.01, 60-1306, 60-1901 to 60-1903, and 60-1908, Reissue Revised Statutes of Nebraska, and sections 18-1736, 18-1737, and 81-2005, Revised Statutes Supplement, 2004; to provide for one license plate and In Transit decal per vehicle; to change provisions relating to license plates; to eliminate obsolete language; to harmonize provisions; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 64. Introduced by Synowiecki, 7; Cornett, 45.

A BILL FOR AN ACT relating to peace officers; to adopt the Peace Officer Employer-Employee Relations Act.

LEGISLATIVE BILL 65. Introduced by Foley, 29; Pahls, 31; Schrock, 38.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-310, 60-311.11, and 60-315, Reissue Revised Statutes of Nebraska; to provide for Military Plates; to change provisions for message plates; to harmonize provisions; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 66. Introduced by D. Pederson, 42; Engel, 17; Kruse, 13; Smith, 48.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-201, Revised Statutes Supplement, 2004; to provide for special valuation of historically significant real property; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 67. Introduced by Smith, 48.

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend section 60-682.01, Reissue Revised Statutes of Nebraska; to change provisions relating to fines for speeding in a construction zone; and to repeal the original section.

LEGISLATIVE BILL 68. Introduced by Smith, 48; Baker, 44.

A BILL FOR AN ACT relating to license plates; to amend sections 60-311.03, 60-311.04, 60-311.08, and 60-311.09, Reissue Revised Statutes of Nebraska; to provide for issuance of certain license plates to spouses of veterans as prescribed; and to repeal the original sections.

LEGISLATIVE BILL 69. Introduced by Smith, 48; Baker, 44.

A BILL FOR AN ACT relating to motor vehicles; to amend section 60-4,182, Reissue Revised Statutes of Nebraska; to eliminate provisions relating to protective helmets as prescribed; to harmonize provisions; to repeal the original section; and to outright repeal sections 60-6,278 to 60-6,282, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 70. Introduced by Smith, 48; Baker, 44.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 39-2215, 60-336, 60-4,115, 60-4,127, 60-4,128, 60-4,182, 60-6,279, 60-2125, 60-2126, 60-2129, 60-2130, 60-2131, 60-2132, 60-2133, and 60-2135 to 60-2139, Reissue Revised Statutes of Nebraska; to adopt the Motorcycle Safety and Training Act; to change and eliminate provisions relating to motorcycle safety and helmets; to create a fund and terminate a fund; to provide a penalty; to harmonize provisions; to provide operative dates; to repeal the original sections; and to outright repeal sections 60-2120, 60-2121, 60-2127, 60-2128, and 60-2134, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 71. Introduced by Stuhr, 24; Baker, 44; Burling, 33; Combs, 32; Connealy, 16; Cunningham, 40; Erdman, 47; Fischer, 43; Hudkins, 21; Janssen, 15; Kremer, 34; Loudén, 49; Raikes, 25; Smith, 48; Wehrbein, 2.

A BILL FOR AN ACT relating to economic development; to reenact the Agricultural Opportunities and Value-Added Partnerships Act; to provide a termination date; to eliminate an obsolete provision; and to outright repeal sections 2-5401 to 2-5412 and 90-527, Revised Statutes Supplement, 2004.

LEGISLATIVE BILL 72. Introduced by Stuhr, 24; Aguilar, 35.

A BILL FOR AN ACT relating to security services; to adopt the Security Personnel Licensing Act; and to provide penalties.

LEGISLATIVE BILL 73. Introduced by Aguilar, 35; Janssen, 15; Loudén, 49.

A BILL FOR AN ACT relating to insurance; to amend section 44-1540, Revised Statutes Supplement, 2004; to provide requirements and duties relating to motor vehicle repairs; to harmonize provisions; and to repeal the original section.

LEGISLATIVE BILL 74. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to the Nebraska Political Accountability and Disclosure Act; to amend sections 49-1480.01 and 49-1482, Reissue Revised Statutes of Nebraska; to change lobbyist registration fees; to

provide for distribution of the fees; and to repeal the original sections.

LEGISLATIVE BILL 75. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to public improvements; to amend section 15-201, Reissue Revised Statutes of Nebraska, and section 14-102, Revised Statutes Supplement, 2004; to authorize cities of the primary class and metropolitan class to make public improvements and assess the cost of the improvements; and to repeal the original sections.

LEGISLATIVE BILL 76. Introduced by Baker, 44.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-462, 60-465, 60-4,131, 60-4,132, 60-4,137, 60-4,143, 60-4,144, 60-4,149.01, 60-4,159, and 60-4,168, Reissue Revised Statutes of Nebraska, and section 29-3608, Revised Statutes Supplement, 2004; to change provisions relating to commercial driver's licenses; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 77. Introduced by Baker, 44.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 39-2401, 60-360, 77-1342, and 79-1018.01, Reissue Revised Statutes of Nebraska, and section 13-518, Revised Statutes Supplement, 2004; to change distribution and allocation of certain motor vehicle registration fees; to harmonize provisions; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 78. Introduced by Baker, 44.

A BILL FOR AN ACT relating to the Nebraska Railway Council; to amend section 74-1413, Reissue Revised Statutes of Nebraska; to provide for payment of per diems and expenses by the Department of Roads; and to repeal the original section.

LEGISLATIVE BILL 79. Introduced by Baker, 44.

A BILL FOR AN ACT relating to railroad safety; to amend section 74-1334, Reissue Revised Statutes of Nebraska; to change provisions relating to crossings; and to repeal the original section.

LEGISLATIVE BILL 80. Introduced by Baker, 44.

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend section 60-6,187, Reissue Revised Statutes of Nebraska; to eliminate certain speed restrictions for school buses; to change provisions relating to lights on motor-driven cycles; and to repeal the original section.

LEGISLATIVE BILL 81. Introduced by Baker, 44.

A BILL FOR AN ACT relating to law enforcement; to amend sections 60-304 and 60-480.01, Reissue Revised Statutes of Nebraska; to authorize the issuance of undercover license plates and undercover drivers' licenses to federal law enforcement agencies; and to repeal the original sections.

LEGISLATIVE BILL 82. Introduced by Janssen, 15; Baker, 44.

A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-6,288 to 60-6,290 and 60-6,294, Reissue Revised Statutes of Nebraska; to provide an exception from width, height, length, weight, and load restrictions for authorized emergency vehicles and similar vehicles; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 83. Introduced by Baker, 44.

A BILL FOR AN ACT relating to motor carriers; to amend sections 75-363 and 75-364, Revised Statutes Supplement, 2004; to adopt updated federal Motor Carrier Safety Regulations and federal Hazardous Material Regulations; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 84. Introduced by Byars, 30.

A BILL FOR AN ACT relating to insurance; to amend section 44-3607, Reissue Revised Statutes of Nebraska; to provide disclosure requirements; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 85. Introduced by Byars, 30.

A BILL FOR AN ACT relating to personal assets; to amend sections 12-1106 and 68-129, Reissue Revised Statutes of Nebraska; to change provisions relating to designation of irrevocable funds; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 86. Introduced by Byars, 30.

A BILL FOR AN ACT relating to motor vehicle registration; to amend section 60-311.03, Reissue Revised Statutes of Nebraska; to change requirements for Pearl Harbor survivor plates; and to repeal the original section.

LEGISLATIVE BILL 87. Introduced by Byars, 30.

A BILL FOR AN ACT relating to deaf and hard of hearing persons; to amend sections 20-158, 71-4728, and 71-4728.05, Reissue Revised Statutes of Nebraska, and sections 20-150, 20-151, and 20-156, Revised Statutes Supplement, 2004; to change provisions relating to interpreters, the Commission for the Deaf and Hard of Hearing, and the Interpreter Review Board; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 88. Introduced by Byars, 30.

A BILL FOR AN ACT relating to real estate; to amend section 76-2422, Reissue Revised Statutes of Nebraska; to change provisions relating to brokerage agreements; and to repeal the original section.

LEGISLATIVE BILL 89. Introduced by Byars, 30; Jensen, 20.

A BILL FOR AN ACT relating to dentists; to amend section 71-183.01, Reissue Revised Statutes of Nebraska; to provide an exemption from licensure requirements; and to repeal the original section.

LEGISLATIVE BILL 90. Introduced by Wehrbein, 2.

A BILL FOR AN ACT relating to ethanol; to amend section 66-1345.01, Revised Statutes Supplement, 2004; to change the tax rate on corn and grain sorghum; and to repeal the original section.

LEGISLATIVE BILL 91. Introduced by Aguilar, 35.

A BILL FOR AN ACT relating to civil procedure; to amend section 25-1801, Reissue Revised Statutes of Nebraska; to change provisions relating to claims, expenses, and attorney's fees; and to repeal the original section.

LEGISLATIVE BILL 92. Introduced by Byars, 30; Friend, 10.

A BILL FOR AN ACT relating to cities and villages; to amend sections 16-611 and 17-558, Revised Statutes Supplement, 2004; to change provisions relating to the vacation of streets and alleys; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 93. Introduced by Byars, 30; Smith, 48.

A BILL FOR AN ACT relating to crime victims and witnesses assistance; to amend sections 81-1844 and 81-1845, Revised Statutes Supplement, 2004; to prescribe a defendant surcharge for funding; to change provisions relating to a fund and to victim and witness assistance centers; to provide a duty for the Revisor of Statutes; and to repeal the original sections.

LEGISLATIVE BILL 94. Introduced by Janssen, 15; Aguilar, 35; Schrock, 38.

A BILL FOR AN ACT relating to environmental protection; to amend section 81-1505.04, Revised Statutes Supplement, 2004; to modify provisions regarding the payment of fees for pollutants; to clarify existing provisions; and to repeal the original section.

LEGISLATIVE BILL 95. Introduced by Janssen, 15; Raikes, 25.

A BILL FOR AN ACT relating to school reorganization; to amend sections 79-419 and 79-443, Reissue Revised Statutes of Nebraska; to change provisions relating to holding school in existing buildings as prescribed; to harmonize provisions; to provide a duty for the Revisor of Statutes; and to repeal the original sections.

LEGISLATIVE BILL 96. Introduced by Janssen, 15; Aguilar, 35; Schimek, 27.

A BILL FOR AN ACT relating to education; to amend section 85-505, Reissue Revised Statutes of Nebraska; to change Nebraska National Guard member tuition credit provisions; and to repeal the original section.

LEGISLATIVE BILL 97. Introduced by Beutler, 28.

A BILL FOR AN ACT relating to real property; to amend section 76-239, Reissue Revised Statutes of Nebraska; to change provisions relating to mortgages or real estate contracts; and to repeal the original section.

LEGISLATIVE BILL 98. Introduced by Schimek, 27; Cudaback, 36.

A BILL FOR AN ACT relating to elections; to amend section 32-952, Reissue Revised Statutes of Nebraska; to change provisions relating to special elections by mail; and to repeal the original section.

LEGISLATIVE BILL 99. Introduced by Synowiecki, 7; Connealy, 16.

A BILL FOR AN ACT relating to elevator safety; to amend sections 48-418 to 48-418.03 and 48-418.05 to 48-418.11, Reissue Revised Statutes of Nebraska; to adopt the Conveyance Safety Act; to transfer and eliminate provisions relating to elevators; to create a committee; to rename a fund; to provide penalties; to provide an operative date; to repeal the original sections; and to outright repeal sections 48-418.04, 48-418.12 and 48-418.14, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 100. Introduced by Stuhr, 24; Cornett, 45; Friend, 10.

A BILL FOR AN ACT relating to police animals; to amend section 28-906, Reissue Revised Statutes of Nebraska, and section 28-1008, Revised Statutes Supplement, 2004; to redefine the term for certain crimes; and to repeal the original sections.

LEGISLATIVE BILL 101. Introduced by Byars, 30; Chambers, 11; Jensen, 20.

A BILL FOR AN ACT relating to health and human services; to state intent

relating to a medicaid waiver; to provide for intensive early intervention behavior therapy services for children with autism spectrum disorder; to provide payment rates; to require a report; to provide an operative date; and to declare an emergency.

LEGISLATIVE BILL 102. Introduced by Natural Resources Committee: Schrock, 38, Chairperson; Hudkins, 21; Kopplin, 3; Kremer, 34; McDonald, 41; Stuhr, 24; and Beutler, 28; Preister, 5.

A BILL FOR AN ACT relating to storm water drainage; to amend sections 18-501 to 18-505 and 18-507 to 18-510, Reissue Revised Statutes of Nebraska; to change provisions relating to sewer system charges and fees; to authorize storm water management programs for cities, counties, and natural resources districts as prescribed; to provide powers and duties; to harmonize provisions; to provide severability; and to repeal the original sections.

LEGISLATIVE BILL 103. Introduced by Synowiecki, 7; Preister, 5.

A BILL FOR AN ACT relating to veterans; to amend sections 80-316 and 80-401.01, Reissue Revised Statutes of Nebraska; to change provisions relating to eligibility for admission to veterans homes and for benefits; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 104. Introduced by Thompson, 14; Jensen, 20.

A BILL FOR AN ACT relating to civil rights; to allow breast-feeding as prescribed.

LEGISLATIVE BILL 105. Introduced by Chambers, 11.

A BILL FOR AN ACT relating to courts; to amend sections 25-1629.01 and 25-1635, Reissue Revised Statutes of Nebraska; to change provisions relating to juror qualification forms; to provide powers and duties; and to repeal the original sections.

LEGISLATIVE BILL 106. Introduced by Byars, 30; Aguilar, 35; Baker, 44; Connealy, 16; Jensen, 20; Schimek, 27; Stuhr, 24; Thompson, 14.

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend sections 60-4,182, 60-6,267, 60-6,268, 60-6,270, 60-6,271, and 60-6,272, Reissue Revised Statutes of Nebraska; to require all occupants in motor vehicles to wear occupant protection systems; to change points and fines assessed for such violation; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 107. Introduced by Friend, 10.

A BILL FOR AN ACT relating to alcoholic liquor; to amend sections 53-1,104 and 53-1,106, Reissue Revised Statutes of Nebraska; to change

provisions relating to retail license suspension; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 108. Introduced by Friend, 10.

A BILL FOR AN ACT relating to alcoholic liquor; to amend section 53-180.02, Reissue Revised Statutes of Nebraska; to change provisions relating to possession by minors; and to repeal the original section.

LEGISLATIVE BILL 109. Introduced by Connealy, 16; Cornett, 45; Janssen, 15; Preister, 5.

A BILL FOR AN ACT relating to revenue and taxation; to amend section 77-3446, Reissue Revised Statutes of Nebraska, and section 77-3442, Revised Statutes Supplement, 2004; to change levy and budget restrictions as prescribed; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 110. Introduced by Bourne, 8.

A BILL FOR AN ACT relating to liability limitations; to amend section 25-21,280, Revised Statutes Supplement, 2004; to change provisions relating to immunity for certain educational employees responding to asthma or allergic reactions as prescribed; to provide an operative date; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 111. Introduced by Bourne, 8.

A BILL FOR AN ACT relating to the Nebraska State Patrol; to amend sections 29-212 to 29-214, Reissue Revised Statutes of Nebraska; to establish the Missing Persons Information Clearinghouse; to provide powers and duties for the patrol and local law enforcement agencies; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 112. Introduced by Bourne, 8.

A BILL FOR AN ACT relating to criminal procedure; to require electronic recording of custodial interrogations as prescribed.

LEGISLATIVE BILL 113. Introduced by Cunningham, 40; Connealy, 16; Engel, 17; Flood, 19.

A BILL FOR AN ACT relating to community colleges; to amend section 85-1517, Reissue Revised Statutes of Nebraska, and sections 13-519 and 77-3442, Revised Statutes Supplement, 2004; to change property tax levy provisions; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 114. Introduced by Byars, 30; Combs, 32; Cunningham, 40; Erdman, 47; Howard, 9; Jensen, 20; Price, 26; Stuhr, 24.

A BILL FOR AN ACT relating to schools; to amend sections 79-214 and 79-220, Reissue Revised Statutes of Nebraska; to change provisions relating to entrance requirements; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 115. Introduced by Friend, 10; Cornett, 45.

A BILL FOR AN ACT relating to law enforcement; to amend section 81-1403, Revised Statutes Supplement, 2004; to change revocation and suspension procedures for law enforcement certificates; and to repeal the original section.

LEGISLATIVE BILL 116. Introduced by Friend, 10; Cornett, 45.

A BILL FOR AN ACT relating to child support; to amend section 43-1724, Reissue Revised Statutes of Nebraska; to provide a penalty for failure to withhold; and to repeal the original section.

LEGISLATIVE BILL 117. Introduced by Bourne, 8; Aguilar, 35; Price, 26; Stuthman, 22; at the request of the Governor.

A BILL FOR AN ACT relating to crimes and offenses; to amend sections 28-401, 28-416, 28-450, and 28-456, Revised Statutes Supplement, 2004; to redefine a term; to change penalties for certain drug offenses; to change provisions and penalties relating to ephedrine, pseudoephedrine, and phenylpropanolamine; and to repeal the original sections.

LEGISLATIVE BILL 118. Introduced by Cunningham, 40; Baker, 44; Combs, 32; Connealy, 16; Heidemann, 1; Kremer, 34; Smith, 48.

A BILL FOR AN ACT relating to the Equipment Business Regulation Act; to amend section 87-705, Reissue Revised Statutes of Nebraska; to provide requirements relating to approval of sales and transfers of dealerships; and to repeal the original section.

LEGISLATIVE BILL 119. Introduced by Banking, Commerce and Insurance Committee: Mines, 18; Chairperson; Flood, 19; Jensen, 20; Johnson, 37; Langemeier, 23; Loudon, 49; Pahls, 31; Redfield, 12.

A BILL FOR AN ACT relating to insurance; to amend sections 12-1108, 12-1110, 12-1115, 12-1116, 44-401, 44-402.01, 44-409, 44-417, 44-789, 44-797, 44-2131, 44-2132, 44-4814, 44-5103, 44-5109, 44-5143, 44-5144, 44-5149, 44-5153, 44-5154, 44-5418, 44-5505, 44-5508, 44-6122, 44-6125, 44-7506, 44-7508.01, 44-7509, 44-7511, and 48-146.01, Reissue Revised Statutes of Nebraska; to change provisions of the Burial Pre-Need Sale Act; to change provisions relating to insurance reserves and coverage of bone or joint treatment and breast reconstruction; to change a registration date; to change provisions relating to rehabilitation, investments, and utilization review; to change record requirements; to change provisions relating to the

Mutual Insurance Holding Company Act; to change provisions relating to filings of rating systems and prospective loss costs; to adopt the Property and Casualty Actuarial Opinion Act and the Interstate Insurance Product Regulation Compact; to provide requirements relating to insolvency, reinsurance, and qualified United States financial institutions; to provide powers for the Director of Insurance; to provide for rules and regulations; to harmonize provisions; to repeal the original sections; and to outright repeal sections 44-416, 44-416.01, 44-416.03, and 44-416.04, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 120. Introduced by Loudon, 49; Erdman, 47; Kremer, 34; Smith, 48; Stuhr, 24.

A BILL FOR AN ACT relating to agriculture; to amend section 54-2419, Reissue Revised Statutes of Nebraska; to change provisions of the Livestock Waste Management Act relating to permit conditions; and to repeal the original section.

LEGISLATIVE BILL 121. Introduced by Loudon, 49; Kremer, 34; Preister, 5; Smith, 48.

A BILL FOR AN ACT relating to permits and licenses; to amend sections 37-201 and 37-407, Reissue Revised Statutes of Nebraska; to authorize the issuance of discounted hunting and fishing licenses to residents that have been deployed in the military; to set fees; to authorize rules and regulations; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 122. Introduced by Cunningham, 40; Baker, 44; Janssen, 15; Dw. Pedersen, 39.

A BILL FOR AN ACT relating to the Boiler Inspection Act; to amend section 48-726, Reissue Revised Statutes of Nebraska; to provide an exemption and a registry for certain pressure vessels; and to repeal the original section.

LEGISLATIVE BILL 123. Introduced by Friend, 10; Redfield, 12; Schrock, 38.

A BILL FOR AN ACT relating to criminal procedure; to amend sections 29-2264, 29-4003, 29-4004, 29-4009, and 29-4013, Revised Statutes Supplement, 2004; to change provisions relating to convictions set aside and sex offender registration; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 124. Introduced by Hudkins, 21; Combs, 32; Connealy, 16; Cunningham, 40; Erdman, 47; Heidemann, 1; McDonald, 41; Redfield, 12; Smith, 48; Stuthman, 22.

A BILL FOR AN ACT relating to schools; to amend sections 79-547 and

79-551 to 79-553, Reissue Revised Statutes of Nebraska; to provide for representation of Class I school districts on certain other school boards; to harmonize provisions; to provide a duty for the Revisor of Statutes; and to repeal the original sections.

LEGISLATIVE BILL 125. Introduced by Hudkins, 21; Combs, 32; Connealy, 16; Cunningham, 40; Fischer, 43; McDonald, 41; Stuthman, 22.

A BILL FOR AN ACT relating to school boards; to amend section 79-543, Reissue Revised Statutes of Nebraska; to require training and instruction for school board members as prescribed; to provide for approval of such training and instruction; to harmonize provisions; to provide a duty for the Revisor of Statutes; and to repeal the original section.

LEGISLATIVE BILL 126. Introduced by Raikes, 25; Baker, 44; Beutler, 28; Bourne, 8; Byars, 30; Engel, 17; Janssen, 15; Jensen, 20; Mines, 18; Price, 26; Redfield, 12; Stuhr, 24.

A BILL FOR AN ACT relating to schools; to amend sections 32-542, 79-102, 79-401, 79-402, 79-403, 79-405, 79-407, 79-408, 79-409, 79-410, 79-413, 79-415, 76-416, 79-418, 79-419, 79-422, 79-433, 79-434, 79-443, 79-447, 79-449, 79-452, 79-454, 79-455, 79-470, 79-473, 79-479, 79-499, 79-4,101, 79-4,108, 79-4,111, 79-556, 79-611, 79-850, 79-1003, 79-1026, 79-1027, 79-1031.01, 79-1083.02, and 79-1083.03, Reissue Revised Statutes of Nebraska, and sections 79-1016, 79-1022, and 79-1028, Revised Statutes Supplement, 2004; to provide for reorganization of certain school districts as prescribed; to change and eliminate provisions relating to school district reorganization; to harmonize provisions; to provide operative dates; to repeal the original sections; and to outright repeal sections 79-404, 79-406, 79-411, 79-417, 79-424 to 79-427, 79-431, 79-472, 79-477, 79-478, 79-492 to 79-495, 79-4,109, and 79-4,110, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 127. Introduced by Cunningham, 40; Burling, 33; Combs, 32; Kremer, 34; McDonald, 41; Price, 26; Stuthman, 22.

A BILL FOR AN ACT relating to the Nebraska Rules of the Road; to amend section 60-601, Reissue Revised Statutes of Nebraska; to authorize the reporting of school bus safety violations as prescribed; and to repeal the original section.

LEGISLATIVE BILL 128. Introduced by Hudkins, 21.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-101, Revised Statutes Supplement, 2004; to create the offense of interference with child visitation; to provide penalties; to harmonize provisions; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 129. Introduced by Education Committee: Raikes,

25, Chairperson; Bourne, 8; Byars, 30; Stuhr, 24; and Stuthman, 22.

A BILL FOR AN ACT relating to schools; to amend sections 79-1002, 79-1003, 79-1007.01, and 79-1083.03, Reissue Revised Statutes of Nebraska, and sections 77-3442, 79-1001, 79-1007.02, 79-1008.01, 79-1009, 79-1022, and 79-1028, Revised Statutes Supplement, 2004; to provide for adjustments and allowances and change provisions relating to the state aid formula under the Tax Equity and Educational Opportunities Support Act; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 130. Introduced by Brown, 6; Chambers, 11.

A BILL FOR AN ACT relating to civil rights; to amend sections 20-326 and 20-330, Revised Statutes Supplement, 2004; to eliminate changes to discriminatory housing practice complaint procedure and information made by Laws 2004, LB 625; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 131. Introduced by Cunningham, 40; Connealy, 16; Kremer, 34.

A BILL FOR AN ACT relating to the Nebraska Pure Food Act; to amend section 81-2,245.01, Reissue Revised Statutes of Nebraska; to redefine a term; and to repeal the original section.

LEGISLATIVE BILL 132. Introduced by Cunningham, 40; Burling, 33; Connealy, 16; Preister, 5.

A BILL FOR AN ACT relating to agriculture; to amend section 2-3903, Reissue Revised Statutes of Nebraska, and section 2-3901, Revised Statutes Supplement, 2004; to change provisions of the Nebraska Pasteurized Milk Law; to provide for a waiver as prescribed; and to repeal the original sections.

LEGISLATIVE BILL 133. Introduced by Connealy, 16; Preister, 5.

A BILL FOR AN ACT relating to taxation; to amend sections 77-2701 and 77-2701.04, Revised Statutes Supplement, 2004; to provide a renewable energy sales tax credit for certain electricity generators; to repeal the original sections; to provide an operative date; and to declare an emergency.

LEGISLATIVE BILL 134. Introduced by Synowiecki, 7.

A BILL FOR AN ACT relating to workers' compensation; to amend section 48-121, Reissue Revised Statutes of Nebraska; to change disability compensation provisions; and to repeal the original section.

RESOLUTIONS**LEGISLATIVE RESOLUTION 1CA.** Introduced by Schrock, 38.

THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2006 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article VII, sections 7 and 8:

VII-7 The following are hereby declared to be perpetual funds for common school purposes of which the annual interest or income only can be appropriated except as otherwise provided in this section, to wit:

First. Such ~~per-cent-percent~~ as has been, or may hereafter be, granted by Congress on the sale of lands in this state.

Second. All money arising from the sale or leasing of sections number sixteen and thirty-six in each township in this state, and the lands selected, or that may be selected, in lieu thereof.

Third. The proceeds of all lands that have been, or may hereafter be, granted to this state, where by the terms and conditions of such grant the same are not to be otherwise appropriated.

Fourth. The net proceeds of lands and other property and effects that may come to this state, by escheat or forfeiture, or from unclaimed dividends, or distributive shares of the estates of deceased persons.

Fifth. All other property of any kind now belonging to the perpetual fund.

The Legislature may, by a three-fifths majority vote, annually appropriate not more than twenty percent of the principal of the perpetual fund described in this section for the purpose of benefitting the common schools as the Legislature determines.

VII-8 All funds belonging to the state for educational purposes, the interest and income whereof only are to be used except as provided in Article VII, section 7, of this Constitution, shall be deemed trust funds. Such funds with the interest and income thereof are hereby solemnly pledged to the purposes for which they are granted and set apart and shall not be transferred to any other fund for other uses except as provided in such section. The state shall supply any net aggregate losses thereof realized at the close of each calendar year that may in any manner accrue. Notwithstanding any other provisions in the Constitution, such funds shall be invested as the Legislature may by statute provide.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to permit the Legislature to annually appropriate not more than twenty percent of the principal of the perpetual school funds to benefit the common schools.

For

Against.

Referred to the Reference Committee.

LEGISLATIVE RESOLUTION 2CA. Introduced by Landis, 46.

THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2006 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article XIII, section 2:

XIII-2 (1) Notwithstanding any other provision in the Constitution, the Legislature may authorize any county or incorporated city or village, including cities operating under home rule charters, to acquire, own, develop, and lease real and personal property suitable for use by manufacturing or industrial enterprises and to issue revenue bonds for the purpose of defraying the cost of acquiring and developing such property by construction, purchase, or otherwise. The Legislature may also authorize such county, city, or village to acquire, own, develop, and lease real and personal property suitable for use by enterprises as determined by law if such property is located in blighted areas as determined by law and to issue revenue bonds for the purpose of defraying the cost of acquiring and developing or financing such property by construction, purchase, or otherwise. Such bonds shall not become general obligation bonds of the governmental subdivision by which such bonds are issued. Any real or personal property acquired, owned, developed, or used by any such county, city, or village pursuant to this section shall be subject to taxation to the same extent as private property during the time it is leased to or held by private interests, notwithstanding the provisions of Article VIII, section 2, of the Constitution. The acquiring, owning, developing, and leasing of such property shall be deemed for a public purpose, but the governmental subdivision shall not have the right to acquire such property by condemnation. The principal of and interest on any bonds issued may be secured by a pledge of the lease and the revenue therefrom and by mortgage upon such property. No such governmental subdivision shall have the power to operate any such property as a business or in any manner except as the lessor thereof.

(2) Notwithstanding any other provision in this Constitution, the Legislature may also authorize any county, city, or village to acquire, own, develop, and lease or finance real and personal property, other than property used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship, to be used, during the term of any revenue bonds issued, only by nonprofit enterprises as determined by law and to issue revenue bonds for the purpose of defraying the cost of acquiring and developing or financing such property by construction, purchase, or otherwise. Such bonds shall not become general obligation bonds of the governmental subdivision by which such bonds are issued. Notwithstanding the provisions of Article VIII, section 2, of this Constitution, the acquisition, ownership, development, use, or financing of any real or personal property pursuant to the provisions of this section shall not affect the imposition of any taxes or the exemption therefrom by the

Legislature pursuant to this Constitution. The acquiring, owning, developing, and leasing or financing of such property shall be deemed for a public purpose, but the governmental subdivision shall not have the right to acquire such property by condemnation. The principal of and interest on any bonds issued may be secured by a pledge of the lease and the revenue therefrom and by mortgage upon such property. No such governmental subdivision shall have the power to operate any such property as a business or in any manner except as the lessor thereof.

(3) Notwithstanding any other provision in the Constitution, the Legislature may also authorize any incorporated city or village, including cities operating under home rule charters, to appropriate from local sources of revenue such funds as may be deemed necessary for an economic or industrial development project or program subject to approval by a vote of a majority of the registered voters of such city or village voting upon the question. For purposes of this provision, funds from local sources of revenue shall mean funds raised from general taxes levied by the city or village and shall not include any funds received by the city or village which are derived from state or federal sources.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to authorize the use of revenue bonds to develop and lease property for use by nonprofit enterprises as determined by law.

For

Against.

Referred to the Reference Committee.

LEGISLATIVE RESOLUTION 3CA. Introduced by Beutler, 28.

THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2006 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article III, section 12:

III-12 (1) No person shall be eligible to serve as a member of the Legislature for four years next after the expiration of two consecutive terms regardless of the district represented.

(2) Service prior to January 1, 2001, as a member of the Legislature shall not be counted for the purpose of calculating consecutive terms in subsection (1) of this section.

(3) For the purpose of this section, service in office for more than one-half of a term shall be deemed service for a term.

(4) This section terminates January 1, 2010.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to provide a termination date for term limit provisions for members of the Legislature.

For

Against.

Referred to the Reference Committee.

LEGISLATIVE RESOLUTION 4CA. Introduced by Beutler, 28.

THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2006 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article III, sections 7 and 19, and add a new section 31 to Article III:

III-7 At the general election to be held in November 1964, one-half the members of the Legislature, or as nearly thereto as may be practicable, shall be elected for a term of four years and the remainder for a term of two years, and thereafter all members shall be elected for a term of four years, with the manner of such election to be determined by the Legislature. When the Legislature is redistricted, the members elected prior to the redistricting shall continue in office, and the law providing for such redistricting shall where necessary specify the newly established district which they shall represent for the balance of their term. Each member shall be nominated and elected in a nonpartisan manner and without any indication on the ballot that he or she is affiliated with or endorsed by any political party or organization. Each member of the Legislature shall receive a salary of ~~not to exceed~~ one thousand dollars per month during the term of his or her office until his or her compensation is changed in the manner provided by Article III, section 31, of this Constitution. In addition to his or her ~~salary~~ compensation, each member shall receive an amount equal to his or her actual expenses in traveling by the most usual route once to and returning from each regular or special session of the Legislature. Members of the Legislature shall receive no pay nor perquisites other than ~~his or her salary~~ the compensation provided by this section and Article III, section 31, of this Constitution and expenses; ~~and employees of the Legislature shall receive no compensation other than their salary or per diem.~~

III-19 (1) The Legislature shall never grant any extra compensation to any public officer, agent, or servant after the services have been rendered nor to any contractor after the contract has been entered into, except that retirement benefits of retired public officers and employees may be adjusted to reflect changes in the cost of living and wage levels that have occurred subsequent to the date of retirement.

(2) Except as otherwise provided by Article III, section 31, of this Constitution, the ~~The~~ compensation of any public officer, including any officer whose compensation is fixed by the Legislature, shall not be increased or diminished during his or her term of office, except that when there are members elected or appointed to ~~the Legislature or the judiciary;~~ or

officers elected or appointed to a board or commission having more than one member; and the terms of such members commence and end at different times, the compensation of all members ~~of the Legislature~~, of the judiciary, or of such board or commission may be increased or diminished at the beginning of the full term of any member thereof.

(3) Nothing in this section shall prevent local governing bodies from reviewing and adjusting vested pension benefits periodically as prescribed by ordinance.

(4) The surviving spouse of any retired public officer, agent, or servant, who has retired under a pension plan or system, shall be considered as having pensionable status and shall be entitled to the same benefits which may, at any time, be provided for or available to spouses of other public officers, agents, or servants who have retired under such pension plan or system at a later date, and such benefits shall not be prohibited by the restrictions of this section or of Article XIII, section 3, ~~of the Constitution of Nebraska~~ this Constitution.

III-31 (1) There is hereby created the Ethics and Compensation Review Commission. The members of the commission shall be appointed by the Governor. There shall be two members appointed from each congressional district and three members from the state at large. Members of the commission shall serve for terms of six years, except that of the members initially appointed, one from each of the congressional districts and one of the at-large members shall be appointed for terms of two years. No more than five members of the commission may belong to the same political party at any one time, and no elected official or employee of the state or any political subdivision or registered lobbyist may serve as a member. The term of an existing member shall terminate on the date a new member is appointed. A member may serve no more than two terms on the commission and shall receive no compensation for the performance of his or her duties but may be reimbursed for actual and necessary expenses.

(2) The Ethics and Compensation Review Commission shall prepare and present to the Legislature prior to November 1, 2007, a recommended legislative code of ethics which may be adopted by the Legislature. The code of ethics shall include procedures for implementing such code. Beginning three years after the initial adoption of the recommended code of ethics, the Legislature may modify the code of ethics as it deems necessary or advisable to effectuate Article III, sections 10 and 16, of this Constitution. The Legislature shall maintain a code of ethics in its permanent rules.

(3) After the Ethics and Compensation Review Commission has presented a code of ethics to the Legislature and a code of ethics has been adopted as recommended as part of the Legislature's permanent rules, the commission shall review compensation for members of the Legislature and submit a report to the Governor and the Legislature recommending any adjustment to such compensation the commission deems appropriate. The Legislature may by legislative bill approve, disapprove, or reduce the recommended adjustment but may not increase the recommended adjustment. Adjustments shall not become effective until so approved by the Legislature, and when so approved shall become effective three calendar months following the end of the legislative session in which the adjustments were approved. The

commission shall review and submit a report recommending any adjustment to compensation every fourth year and shall review and submit a recommendation with respect to changes in the legislative code of ethics every fourth year after the submission of the original recommendation.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to create the Ethics and Compensation Review Commission, to change and eliminate provisions relating to compensation of members and employees of the Legislature, and to provide for the adoption of a legislative code of ethics.

For

Against.

Referred to the Reference Committee.

LEGISLATIVE RESOLUTION 5CA. Introduced by Beutler, 28.

THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2006 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To add a new section 31 to Article III and repeal Article III, section 12:

III-31 (1) Members of the Legislature may be removed from office by recall pursuant to this section.

(2) A petition demanding that the question of removing a member of the Legislature be submitted to the registered voters of that legislative district shall be signed by registered voters equal in number to at least twenty-five percent of the total vote cast for that office in the last general election at which that office was filled. Only registered voters of such member's legislative district as it exists when the petitions are circulated may sign a recall petition. The Secretary of State shall notify the principal circulator that the necessary signatures must be gathered within ninety days after the date of issuing the petition papers.

(3) A recall petition may be filed against a member of the Legislature who has served more than two consecutive terms of office but not within one hundred twenty days after the beginning of any third or subsequent consecutive term of office or within two hundred days prior to the end of any third or subsequent consecutive term of office. No recall petition shall be filed against a member of the Legislature during the same term of office in which a recall election has failed to remove him or her from office.

(4) If the recall petition is found to be sufficient, the Secretary of State shall notify the member and the Clerk of the Legislature that sufficient signatures have been gathered. If the member does not resign within five days after receiving the notice, the Secretary of State shall order an election to be held not less than thirty nor more than forty-five days after the expiration of the five-day period, except that if any other election is to be held in that district within ninety days after the expiration of the five-day

period, the Secretary of State may provide for the holding of the removal election on the same day. After the Secretary of State sets the date for the recall election, the recall election shall be held regardless of whether the official whose removal is sought resigns before the recall election is held.

(5) If a majority of the votes cast at a recall election are against the removal of the member or the election results in a tie, the member shall continue in office for the remainder of his or her term and shall not be subject to further recall attempts during such term. If a majority of the votes cast at a recall election are for the removal of the official named on the ballot, he or she shall, regardless of any technical defects in the recall petition, be deemed removed from office unless a recount is ordered. If the official is deemed removed, the vacancy shall be filled as provided by law.

(6) No member who is removed from office as a result of a recall election or who resigns after the initiation of the recall process shall be appointed to fill a vacancy resulting from his or her resignation or the resignation or removal of any other member of the Legislature or be eligible for election to the Legislature during the remainder of the term of the office from which the member was removed.

Article III, section 12, of the Constitution of Nebraska is repealed.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to provide for recall of state legislators and to repeal term limits for state legislators.

For

Against.

Referred to the Reference Committee.

LEGISLATIVE RESOLUTION 6. Introduced by D. Pederson, 42.

WHEREAS, the global conflict of 1939-1945, known as World War II, was the greatest and most destructive war in history. More than seventeen million members of the armed forces of various belligerents perished during the conflict. World War II strained the economic capabilities of major nations and left countries on the verge of collapse; and

WHEREAS, the City of North Platte, Nebraska, is planning a gala celebration to honor Nebraska's World War II veterans for their tremendous heroism and bravery on the many fronts and battlefields that enabled the United States and its allies to be victorious; and

WHEREAS, a Twentieth Century Veterans' Memorial will also be dedicated and includes stepping through a bronze eagle crested entryway and standing before a larger than life bronze group statue entitled "Defenders of Liberty". Six bronze statues on either side of the walkway depict the honorable military men and women who served during the Twentieth Century; and

WHEREAS, continuing down a "Walk of Honor" reminds visitors of the thousands of veterans whose names are inscribed in the bricks that make up the walls. There is space for eight thousand eight bricks, with bricks donated

to honor veterans from forty-two states and one hundred fifty-seven towns in Nebraska; and

WHEREAS, the back wall of the memorial is a stunning fifteen feet by forty feet brick bas-relief mural reflecting the struggle to preserve peace and freedom; and

WHEREAS, a special area on the east side of the Twentieth Century Veterans' Memorial is dedicated to those great people from the greater mid-Nebraska area who developed and served the Canteen at the North Platte depot and encouraged more than six million military men and women as they passed through North Platte on troop trains during World War II.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature designates and commemorates the City of North Platte as Nebraska's official celebration site of the Sixtieth Anniversary of the end of World War II on September 2 and 3, 2005.

Laid over.

LEGISLATIVE RESOLUTION 7. Introduced by Schrock, 38.

WHEREAS, Andrew Kenneth Roberts, of Orleans, Nebraska, has completed the requirements for the rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, to earn the rank of Eagle Scout, the highest advancement rank in Scouting, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. Although many options are available to demonstrate proficiency in these areas, a number of specific skills are required to advance through the ranks: Tenderfoot, Second Class, First Class, Star, Life, and finally Eagle. Throughout his Scouting experience, Andrew Kenneth Roberts has learned, been tested on, and been recognized for various Scouting skills; and

WHEREAS, to achieve the rank of Eagle Scout, a Boy Scout is required to earn 21 merit badges, 12 of which are in required areas, and complete a community service project approved by the troop and the scout council; and

WHEREAS, only four percent of the boys who join the Boy Scouts of America achieve the rank of Eagle Scout; and

WHEREAS, Andrew Kenneth Roberts will join other high achievers who are Eagle Scouts such as astronauts, political and industry leaders, artists, scientists, and athletes.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Andrew Kenneth Roberts on achieving the rank of Eagle Scout.

2. That a copy of this resolution be sent to Andrew Kenneth Roberts.

Laid over.

LEGISLATIVE RESOLUTION 8CA. Introduced by Schrock, 38;

Aguilar, 35; Baker, 44; Burling, 33; Byars, 30; Combs, 32; Connealy, 16; Cornett, 45; Cudaback, 36; Cunningham, 40; Engel, 17; Erdman, 47; Fischer, 43; Flood, 19; Foley, 29; Friend, 10; Heidemann, 1; Hudkins, 21; Janssen, 15; Johnson, 37; Kopplin, 3; Kremer, 34; Kruse, 13; Langemeier, 23; Loudon, 49; McDonald, 41; Mines, 18; Pahls, 31; Dw. Pedersen, 39; Price, 26; Smith, 48; Stuhr, 24; Stuthman, 22; Synowiecki, 7.

THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION, RESOLVE THAT:

Section 1. At the general election in November 2006 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To add a new section 28 to Article I:

I-28 Fishing, trapping, and hunting are a valued part of the heritage of the people and will be a right forever preserved for the people subject to reasonable restrictions as prescribed by law.

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

A constitutional amendment to preserve the right to fish, trap, and hunt subject to reasonable restrictions as prescribed by law.

For

Against.

Referred to the Reference Committee.

UNANIMOUS CONSENT - Add Cointroducers

Senators Cornett, Foley, Kruse, Dw. Pedersen, Price, Synowiecki, and Wehrbein asked unanimous consent to have they names added as cointroducers to LB 28. No objections. So ordered.

ANNOUNCEMENT

The Banking, Commerce and Insurance Committee elected Senator Redfield as Vice Chairperson.

MOTION - Escort Committees

Senator Stuhr moved that a series of committees be appointed to escort the various state officers for the purpose of administering their oaths of office.

The motion prevailed.

RECESS

At 12:08 p.m., on a motion by Senator Landis, the Legislature recessed until 1:45 p.m.

AFTER RECESS

The Legislature reconvened at 1:45 p.m., Senator Cudaback presiding.

ROLL CALL

The roll was called and all members were present except Senators Beutler, Bourne, Brown, Chambers, Foley, Landis, Dw. Pedersen, Preister, and Wehrbein who were excused.

SPEAKER BRASHEAR PRESIDING

PRESENTATION OF COLORS

Presentation of Colors by the Nebraska Army National Guard and the Nebraska Air National Guard.

INAUGURAL CEREMONIES

Chief Justice John Hendry administered the Oath of Office to the newly elected State officials.

The Chief Justice and the newly elected State officials were escorted from the Chamber.

VISITOR

The Doctor of the Day was Dr. Dale Michels from Lincoln.

ADJOURNMENT

At 2:16 p.m., on a motion by Senator Byars, the Legislature adjourned until 11:00 a.m., Friday, January 7, 2005.

Patrick J. O'Donnell
Clerk of the Legislature

